



LAWS

OF A

GENERAL NATURE

PASSED AND PUBLISHED AT THE NINETEENTH SESSION

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF INDIANA,

HELD AT INDIANAPOLIS, ON THE FIRST MONDAY IN DECEMBER, ONE THOUSAND
SAND EIGHT HUNDRED AND THIRTY-FOUR.

BY AUTHORITY.

Indianapolis:
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.....
1835.

LAWS

OF A

GENERAL NATURE.

CHAPTER I.

AN ACT to amend an act entitled an act regulating the practice in chancery, (Approved Feb. 10, 1831.)

[APPROVED JANUARY 31, 1835.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That whenever it shall be made satisfactorily to appear, by the affidavit of some disinterested person, filed, during the vacation of the Court, in the Clerk's office of the proper county, that any defendant or defendants to any bill in chancery, or to any petition or libel for divorce, filed in the Clerk's office aforesaid, is not a resident of this state, it shall be the duty of the clerk aforesaid, forthwith to make publication for three successive weeks, in some public newspaper printed weekly in the county where the said bill, petition, or libel may be filed; and if there be no such newspaper printed in said county, then in the nearest weekly newspaper printed in some other county, setting forth the filing of such affidavit, and notifying said defendant or defendants of such bill, libel, or petition, and that unless such defendant or defendants plead, answer, or demur to the same, on or before the calling of the cause at the next ensuing term of said court, the bill, as to such defendant or defendants, will be taken as confessed.

SEC. 2. If such publication shall have been made at least sixty days before the first day of the next following term of the Circuit Court of such county, such fur- Proceedings where publication has been made sixty

On petition for divorce publication shall be made by the clerk in vacation on affidavit of nonresidence of defendant.

days prior to
the term of the
court.

Complainant
may dismiss
bill without pre-
judice after a
reversal of de-
cree by S. C.

Suit in chance-
try may be pros-
ecuted against
unknown heirs.

ther proceedings shall take place, as is contemplated in the seventh and other sections of the act to which this is an amendment, according to the requirements of justice and equity.

SEC. 3. That in any suit in chancery, which may have been, or may be hereafter, taken to the Supreme Court, by appeal or writ of error, and the decree of the Circuit Court reversed, in whole or in part, and remanded to the Circuit Court with instructions, the complainant in the bill may, at the term of the Circuit Court to which the opinion of the Supreme Court may be certified, dismiss his bill, without prejudice to his legal or equitable rights, notwithstanding such instructions—the complainant paying all costs.

SEC. 4. Where a ground for a suit in chancery shall exist against a defendant who shall die, before or pending such suit, or if such ground for a suit shall arise after such death, and it shall not be known whether such decedent has any one or more heirs or not, or that if there are such heir or heirs, that they are non-residents of this state, and it may be necessary to make such heir or heirs (if any) defendants to such suit, such suit may be prosecuted as against the unknown heirs of such decedent, and publication of such suit may be made accordingly.

CHAPTER II.

AN ACT to provide for the furnishing and preservation of the State House.

[APPROVED FEBRUARY 7, 1835.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the commissioners appointed by law to superintend the building of the State House are hereby authorized and directed to cause the said State House to be furnished, and prepared for the reception of the Legislature, at their next session, as follows (to-wit): They shall cause to be made and properly arranged a square table for the use of each member of each house, with an appropriate and convenient drawer, which tables and drawers shall be substantially and neatly made of cherry wood, and covered with green baize, and neatly bound with thin sheet iron or japaned tin, and furnished with lock and key. They shall also cause the chairs belonging to the State, and heretofore procured for the use of the Legislature to be well repaired,

State house to
be furnished
and prepar'd for
the reception of
the Legislature
at its next ses-
sion.

so far as the same are susceptible of being repaired, and an additional number to be procured sufficient to accommodate the members of each house. They shall also cause to be made as fixtures or otherwise suitable desks and the necessary appendages for the use of the clerks of the house of representatives and the secretaries of the senate, and such number of Franklin stoves to be provided and erected as may be sufficient to make the halls devoted to the use of the two houses of the general assembly comfortable and warm.

SEC. 2. The said commissioners shall also cause the square upon which the State House is situated to be enclosed for the time being, by a sufficient plank fence, and shall cause the ground at the north and south fronts of the State House to be sufficiently graded and paved to afford the necessary facilities to the entrance thereof.

Square to be
enclosed &c.

SEC. 3. The said commissioners shall certify the accounts of item accruing in carrying into effect the previous sections hereof, which being filed in the auditors office so certified shall be a sufficient voucher for the auditing and paying thereof.

Accounts to be
audited &c.

SEC. 4. If any person shall previous to the completion of the State House, carry a lighted segar or pipe into the building, such person upon conviction thereof before a justice of the peace, shall pay a fine of three dollars to be assessed collected and appropriated as are other fines for minor offences.

Penalty for car-
rying lighted se-
gar or pipe into
State house pre-
vious to its
completion.

SEC. 5. Every person who shall deface, disfigure or injure said building by discolouring or marking or writing on the same shall, on conviction thereof by indictment, be fined in any sum not exceeding fifty dollars, to which may be added imprisonment in the county jail not exceeding twenty days, and such person shall moreover be liable in the sum of ten dollars to be recovered by an action of debt before a justice of the peace in the name and for the use of any person suing for the same.

Penalty for de-
facing &c. the
building.

SEC. 6. Every person who shall negligently or maliciously destroy or injure, or cause to be destroyed or injured, the State House, by any means other than those mentioned in the next preceding section of this act, shall on conviction thereof be punished as provided by the thirty-third section of "an act relative to crime and punishment," approved February 10, 1831.

Penalty for de-
stroying or in-
juring said build-
ing.

SEC. 7. The Governor shall appoint at his pleasure a suitable person to superintend said State House, after the same shall have been completed, and to guard it from injury, take charge of the keys and keep the house and furniture clean and in order; who shall as a com-

Governor to ap-
point a person
to take care of
the house.

Compensation. *pensation receive one dollar per day, or not to exceed seventy-five dollars per year payable only when upon actual duty, upon the certificate of the auditor, secretary and treasurer of state. The person having charge of the State House as aforesaid, shall as soon as practicable, procure and paste up on different parts of the same, and at least, one in each room, a brief printed cautionary notice of the penal provisions of this act.*

Treasurer authorized to negotiate a loan to pay contractor. *SEC. 8. If the Indianapolis fund or other means in the treasury, shall be found insufficient, the treasurer of the state is hereby authorised and directed to negotiate a loan to enable the commissioners to comply on the part of the state, with the contract made by them with Ithiel Town for the building of the State House, and he shall report the amount of such loan to the auditor who shall charge the same on his book against said treasurer.*

Duty of agent of State. *SEC. 9. The agent of state for the town of Indianapolis is hereby directed to pay over to the treasurer of state all the moneys which he may receive belonging to the Indianapolis fund quarter yearly.*

This act to take effect and be in force from and after its passage.

CHAPTER III.

AN ACT to amend "an act to regulate trials of the right of property" approved February 1, 1834.

(APPROVED JANUARY 8, 1835.)

Misprint in former law corrected. *Be it enacted by the General Assembly of the State of Indiana, That the words "either the," before the words "execution defendant or defendants," in the first section of the act to which this is an amendment, are hereby declared to be a misprint, as the same appears in that act as published, and that the words "other than the" are hereby substituted in place of the said words "either the," and that the said act be construed according to such substitution.*

CHAPTER IV.

AN ACT to amend an act entitled "an act to provide for the inspection of salt, beef and flour," approved January 24, 1829.

(APPROVED JANUARY 26, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for the Board doing county business in any county in this state in which an inspector shall not have been appointed, qualified and in office under the law of this state, when they think proper to do so, appoint an inspector who shall hold his office during the pleasure of said board, whose duty it shall be, if applied to by the owner or owners, his or their agent or agents to inspect all tobacco in hogsheads that may be offered for sale, or that may be grown and put up in hogsheads for sale or exportation, in such county, and shall brand the same on one end of the hogshead, *first, second, or third rate*, agreeably to the quality such hogshead may contain; for which inspection the owner or owners of such tobacco shall pay to the inspector such sum as may be fixed upon by the board doing county business in such county for each hogshead by him so inspected.*

This act to be in force from and after its passage.

CHAPTER V.

AN ACT legalizing the election of Probate Judges.

[APPROVED DECEMBER 31, 1834.]

WHEREAS, it appears that the Judge of the Probate court *Preamble*, for the county of Miami, did not receive his certificate of qualification previous to his election as provided by law, but has since received such certificate—Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That where any person has been heretofore elected or appointed a Probate Judge without previously receiving a certificate of qualification to discharge the duties appertaining to that office, as required by law, but has since received such certificate, he shall, if now commissioned and qualified, or as soon as he is commissioned and qualified, proceed to discharge the*

County board to appoint inspector of tobacco.

His duty.

Certificate of qualification obtained after election, legal.

duties of such office, and all and singular his acts, judgments, orders, decrees and proceedings heretofore or hereafter done or rendered, are hereby made and declared to be as valid and legal as though such person had received such certificate of qualification previous to such his election or appointment, and no further or otherwise.

CHAPTER VI.

AN ACT supplemental to an act entitled "an act legalizing the election of Probate Judges."

[APPROVED JANUARY 17, 1835.]

Be it enacted by the General Assembly of the State of Indiana, That the act entitled "an act legalizing the election of Probate Judges" approved December 31, 1834, to which this act is supplemental shall take effect and be in force from and after the passage of this act.

CHAPTER VII.

AN ACT to amend an act entitled "an act to regulate the mode of doing county business," approved January 19th, 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That hereafter it shall be lawful for the board of county commissioners or boards doing county business in the several counties in this state, to sit five days at each of the regular terms thereof, if the business of the county require it.

SEC. 2. That so much of the (fifth) 5th section of the act to which this [is] an amendment, as contravenes the provisions of this act, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER VIII.

AN ACT relative to School Commissioners' Deeds.

[APPROVED, FEBRUARY 6, 1835.]

*Be it enacted by the General Assembly of the State of Indiana, That any deed of conveyance of any school lands executed by a school commissioner, shall be *prima facie* evidence of the regularity of the sale, and of the proceedings authorising the same, on which such deed of conveyance is predicated or founded, reserving the right of any exception to such deed for any insufficiency or defect appearing on its face.*

CHAPTER IX.

AN ACT to amend an act regulating the taking up of Animals going astray, and water craft and other articles of value going adrift, approved February 9, 1831.

(APPROVED FEBRUARY 7, 1835.)

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That it is hereby made the privilege and right of any householder to take up any animal or animals going astray, water craft or other articles of value adrift, he being subject to the same requirements of law which are named in the act to which this is an amendment: *Provided however*, that any householder not a freeholder, taking up any animal or animals going astray, water craft or other article of value adrift, shall, when he reports the same to any disinterested justice of the peace, in the township where the property may be taken up, enter into bond, with security, to be approved by the said justice, that he will faithfully and honestly account for said property, so taken up according to law.*

SEC. 2. That estray animals or other property adrift, the appraised value of which does not exceed ten dollars, shall vest in the taker up, at the same time, and subject to the same provisions, as are limited and provided by the act to which this is an amendment, for estray animals or property adrift, the appraised value of which does not exceed five dollars.

SEC. 3. That the taker up of any articles of property No allowance

*Householders may take up es-
try animals, &c.*

Proviso.

Property to vest in the taker up where the value does not exceed ten dollars.

shall be made mentioned in the 8th and 9th sections of the act to
for keeping an estray where the value exceeds twenty dollars,
unless it appear by oath that the same has not been used.
which this is an amendment, when the value of the article taken up exceeds twenty dollars, shall not be allowed for keeping the same, unless such taker up specifically state in the claim for keeping such estray, that he or she has not worked or used the same, nor suffered it to be worked or used by others; which account and statement shall be in writing, verified by oath or affirmation of the taker up, before some justice of the peace of the township where the same was taken up.

SEC. 4. This act to take effect and be in force from and after its publication.

CHAPTER X.

AN ACT to provide for taking the enumeration of the white male inhabitants above the age of twenty-one years, in this State.

(APPROVED FEBRUARY 7, 1835.)

Duty of Clerks of the Circuit Court. **SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That on or before the twenty-fifth day of November next, it shall be the duty of each and every Clerk of the Circuit Court, within and for their respective counties, under the seal of their said courts, to certify to the Secretary of State, the whole number of white male paupers, and insane persons, and persons exempt from a poll tax, who are not certified to the Auditor of Public Accounts, that belong to, or are inhabitants of, their several counties, together with the number furnished by the list of the collector, in pursuance of the provisions of the fifth section of this act.

Duty of Auditor. **SEC. 2.** It shall be the duty of the Auditor of Public accounts, on or before the first Monday in December next, to certify to the Secretary of State the whole number of polls returned from each county, for the present year.

Duty of the Secretary of State. **SEC. 3.** That it shall be the duty of the Secretary of State, on the second Monday of the next session of the General Assembly to furnish the Speaker of the House of Representatives, and the President of the Senate, each, for the inspection of their respective houses, with a certified statement, exhibiting the whole number returned from each county, agreeably to the provisions of this act.

Penalty for re- **SEC. 4.** That if the Clerk of any Circuit Court, the

Auditor of public accounts, Secretary of State, or collector of duty of any county shall refuse to discharge the duties enjoined upon them in this act, he or they so offending shall forfeit and pay, for the use of the proper county seminary, the sum of fifty dollars, to be recovered by presentment or indictment in any court having jurisdiction thereof.

SEC. 5. It shall be the duty of the several collectors of state and county tax, up to the twentieth day of November next, to take a list of all the white male inhabitants above the age of twenty-one years, that may not have been entered on the list of taxables, whether the same be subject to the payment of tax or not, and to enter their names alphabetically, in a book to be kept for that purpose, which book shall be returned by the collector, to the Clerk of the Circuit Court of the proper county on or before the said twentieth day of November, 1835, whose duty it shall be forthwith to certify the whole number so returned, including those enumerated in the first section of this act, to the Secretary of State. And the board doing county business shall allow such collectors a reasonable compensation for such services, to be paid out of the county treasury of their respective counties.

SEC. 6. In addition to the duties hereinbefore required, it shall be the [duty of the] clerks aforesaid, forthwith, after the said twentieth day of November next, to make out and furnish the Senator, or some one of the Representatives of the proper county with a certificate, certifying under his hand and seal of the Circuit Court, the whole number of polls, paupers, insane persons, persons exempt from poll tax, and persons returned by the collector as aforesaid, which certificate shall be handed over by said Senator or Representative to the Secretary of State, within the first week of the next session of the General Assembly.

SEC. 7. In all cases where counties have territories attached thereto, or have jurisdiction over any new county which is unorganized, it shall be the duty of the several officers, whose services are required in the aforementioned returns, severally, to keep, make out, or transmit, as the case may be, separately, the numbers in said attached territory or new county, and be governed in all other respects by the provisions of this act.

This act to take effect and be in force from and after the first day of May next.

Further duty of Clerks.

Compensation to collectors.

Further duty of Clerks.

Attached territory.

CHAPTER XI.

AN ACT to provide for an equitable mode of levying the taxes of this state.

(APPROVED FEBRUARY 7, 1835.)

Property subject to taxation.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That all lands and town lots, and the value over and above two hundred dollars of all buildings erected or made thereon, or affixed thereto, which is the property of any individual or individuals, body corporate or politic; all horses, mules and asses over the age of three years; all neat cattle of the age of two years and upwards, except milch cows, not to exceed two to each family; all hogs over one year old; all carts, wagons, and two and four wheeled carriages; all brass and wooden clocks, and gold, silver and composition watches; all side boards, sofas, secretaries, bureaus, desks; all musical instruments over the value of five dollars; and gold and silver ware; the law and medical libraries of all lawyers and physicians; and all capital employed in tanneries, distilleries, breweries, iron, brass and copper foundries; and all capital employed in steam, canal and keel boats; and in the vending of spirituous liquors; all carding machines and machinery employed in any kind of manufacture whatever; all moneys loaned at interest, on simple contract, bond or mortgage; the capital of all merchants, and exchange brokers, employed in this state; all capital in public stocks, or the stocks of monied or other incorporations, shall be, and the same are hereby declared to be subject to taxation; with the exemptions hereinafter specified; to be levied and collected agreeably to law.

Property exempt from taxation

SEC. 2. All lands belonging to the United States, or to this state, together with the improvements thereon; all lands sold by Congress, for the term of five years from the day of sale; all lands with the improvements thereon, not exceeding ten acres, the title of which is vested in any trustee or trustees, body corporate or politic for the use of, and in trust for any religious society, and occupied by such society, for the use of a meeting house or burying-ground; all lots of ground set apart for schoolhouses, academies or colleges, with the buildings and improvements thereon, occupied for such purposes; all lands set apart for the use of common schools; all state and county libraries; and all libraries and philosophical apparatus, belonging to, or used by any incorporated college, or academy, or society for the promotion of science; all

lands owned by any county in this state, and set apart for the use and support of the poor of such county, not exceeding two hundred acres; all county grounds and county buildings set apart for county purposes; all hospitals, alms-houses, houses for the correction or reformation of offenders, and the real and personal property belonging thereto; and all stocks owned by the state, or by literary or charitable institutions; and all the personal property of a widow and orphan children, if it does not exceed two hundred dollars in value, are hereby declared exempt from taxation: *Provided*, that stock held in any turnpike or rail road company, shall not be subject to taxation, previous to such company charging or receiving tolls: And *provided*, that no corporation nor stockholder thereof, shall be liable to pay any tax for stock which shall have been converted into property, for which such corporation or stockholder is liable to pay taxes by the provisions of this act: *Provided always*, that if any person who may have served in the land or naval service of the United States during the revolutionary war, shall make and file with the assessor, an affidavit, sworn to before such assessor, setting forth that he has served as aforesaid for three months or upwards, such person shall be exempt from the payment of a poll tax, and a tax on his personal property, and on his real property to the amount of eighty acres.

Proviso.

Proviso.

Revolutionary soldiers exempt to a certain extent.

SEC. 3. For the purpose of ascertaining the number of taxable inhabitants, and amount of taxable property in this state, it shall be the duty of the board doing county business in each county, at their next May term, and at their January term, annually, thereafter, to appoint one or more assessors, whose duty it shall be, within ten days after his appointment, of which he shall be notified by a summons, issued by the clerk, and served by the sheriff, to enter into bond to the state of Indiana, with security to be approved by the clerk in his office, in the penalty of three hundred dollars, conditioned for the faithful performance of his duties as such assessor; and shall also take an oath or affirmation, to be administered by said clerk, that he will, without partiality, to the best of his judgment and skill, well and faithfully discharge the duties required of him by law.

Bond.

Oath.

SEC. 4. If any assessor appointed under the provisions of this act, shall fail or refuse to accept of such appointment, within ten days after he shall have received notice thereof, the clerk upon such failure to attend and qualify, as herein directed, shall issue a summons, to be served by the sheriff, directed to the members of the board do-

On failure or refusal of assessor to accept the appointment the clerk shall convene the county board to make

a new appoint-
ment.

When the as-
sessor is preven-
ted by death or
oth'r cause from
completing the
assessment, the
board shall be
conven'd in like
manner as above
to fill the va-
cancy.

Clerk shall pre-
pare a list of all
lands subject to
taxation.

Duty of asses-
sor.

ing county business, informing them of such failure to qualify and act as assessors, naming in said summons a day for the members of said board, not exceeding ten days from the date thereof, to meet at the court house, to appoint an assessor in his place; and said board shall thereupon convene at the time specified in such summons, and appoint another assessor, who shall appear at the office of said clerk, and qualify and give bond as hereinbefore directed. And should any assessor die or become unable, by bodily infirmity, or any other cause, to complete the assessment of his township, according to the provisions of this act, upon information thereof given to the clerk aforesaid, a like summons, as abovementioned, shall be issued to the board doing county business, who shall thereupon appoint some suitable person to complete such assessment, who shall give bond and qualify as above directed; and such last assessor shall demand and receive the assessment roll of his predecessor, of such predecessor, or the person in whose possession the same may be, and shall proceed to complete the assessment of polls and taxable property, according to the provisions of this act; and if the assessment roll of his predecessor cannot be obtained, the clerk shall, upon application, make out a new roll; and such assessor shall proceed to assess his proper township, as if he had been appointed the original assessor.

SEC. 5. The clerk of each county shall, within twenty days after the appointment of such assessors, prepare a list of all lands on the assessment and tax rolls of his county, in his office, subject to taxation, whether the same shall be delinquent or otherwise: also a list of such lands as shall become subject to taxation for the first time, and certified to him by the Auditor of public accounts.

SEC. 6. Said assessor, forthwith, after being qualified into office as aforesaid, shall proceed to take a list of all the taxable inhabitants of his township, and make an assessment of all the property therein made subject to taxation by this act, and for that purpose he shall call on each person resident in his township, and request of such person a list all his property liable to taxation as aforesaid in said township, carefully informing such person what property is subject to taxation under this act; which list, written down by such person or said assessor, shall particularly set forth the owner or owners, the number of acres of land in each particular tract, section or subdivision thereof, the range, township, section, quarter section, quarter-quarter section, or other subdivision thereof, or the number of the entry, survey or grant

as the nature of the particular or general authorised surveys may require, so as completely to identify the same, observing in all cases in relation to lands, the same order in which the same lands are described in the tract book filed in the clerk's office, viz: commencing at sec. 1, or the lowest numbered section, and proceed numerically to section thirty-six, or the highest numbered section in said township; also all town in and out lots, with the number therof, as described on the plat of such town as exhibited on the record of said plat, recorded in the recorder's office of the county; also the aggregate value of all his personal property, made subject to taxation; the aggregate amount of moneys by him loaned at interest on simple contract, bond or mortgage; if a lawyer or physician, the value of his law or medical library; and all capital employed in merchandize or exchange brokerage: *Provided however,* That nothing in this section shall be so construed as to require any person to give in, or show a schedule specifying the items of his personal property subject to taxation, but he shall only be required to state the aggregate value of all such property belonging to him subject to taxation.

SEC. 7. When any person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such with the addition to his name of his representative character; and such assessment shall be carried out in a separate line from his individual assessment.

SEC. 8. That whenever the assessor shall be unable to procure from such person or persons, a list of their taxable property, or whenever any person having property subject to taxation shall not reside within the township where the same shall be situated, and shall fail to deliver to said assessor a list thereof ten days before the time the assessor is bound to return his assessment according to law, it shall be the duty of said assessor to make a list thereof from the best information he may be able to obtain, noting such fact in his list; but if such person or persons shall make out and deliver to said assessor a list of his property subject to taxation before the time of said assessor's returning his assessment to the clerk as hereinafter provided, such assessor shall receive such list and correct such valuation thereby if necessary.

SEC. 9. The real property of non-residents, or persons whose names are unknown, together with the value over and above two hundred dollars of all buildings thereon, shall be designated in the same assessment roll, but in a part thereof separate from the other assessments.

Trustees, guar-
dians, &c. how
assessed.

Where the as-
sessor cannot
procure a list of
taxables he
shall make a
list from the
best information
he can obtain.

Property of non
residents, &c.
how designated

Land &c. owned by more than one person may be listed in shares at the option of the owner or owners.

Merchants, who considered.

List of property belonging to a corporation, by whom and when made.

Valuation of real estate &c. to be made by assessor.

Value of personal property to be given by the owner. If the assessor be dissatisfied with such valuation he may fix value himself.

Affidavit may be filed with the assessor before he shall have completed the assessment that with the proper assessor an affidavit, that the list of his property as given in by him is true and correct, to the

SEC. 10. If any tract of land, in-lot or out-lot, be owned by two or more persons, it shall be lawful for such persons, or either of them to list their respective shares severally or collectively, as he, she or they shall deem expedient, in which case, said assessor shall note in his list the tenancy of said real property, together with the whole number of acres contained in the whole of said tract or parcel of land.

SEC. 11. All persons trading in foreign or domestic goods, wares, merchandize, and groceries, or drugs and medicines within this state, whether the capital shall be owned in this state or elsewhere, shall be considered merchants.

SEC. 12. It shall be the duty of the President, Cashier, Secretary, Treasurer or other proper agent of any incorporated company whose funds, property, or stock are subject to taxation by this act, to make out and deliver to said assessor a list of all the property, funds and stock of such company or institution liable to taxation, on or before the first day of September next, and on or before the first Monday in May annually thereafter.

SEC. 13. It shall be the duty of such assessor upon actual view to make a true valuation of all the real estate together with the value over and above two hundred dollars, of the buildings thereon or affixed thereto, made liable to taxation at their full value in money, as he would appraise the same in the payment of a just debt, due from a solvent debtor, taking into consideration the fertility and quality of the soil, the vicinity of the same to public roads, towns or villages, navigable rivers, water privileges on the same, or in the vicinity of the same; the location or route of any canal or canals, with any other local advantages of situation.

SEC. 14. It shall be the duty of every person possessing personal property subject to taxation, to give a fair and true valuation thereof, at the time he gives in his list as aforesaid. If such assessor shall not be satisfied with the valuation of the personal property by the owner, his agent, or the guardian or the trustee thereof, he may himself make a valuation of the same at its full cash value, according to the best of his knowledge and information.

SEC. 15. It shall be lawful for any person or the agent, trustee or guardian of any person whose property is subject to taxation, at any time before such assessor shall have completed his assessments, to make and to file with the proper assessor an affidavit, that the list of his property as given in by him is true and correct, to the

best of his knowledge; and that the property therein specified does not exceed a certain sum in value to be named in said affidavit, stating therein separately the value of the several kinds of property hereinafter required to be separately designated by such assessor in his assessment-roll; and said assessor is hereby authorised to administer the necessary oath or affirmation to the person making such affidavit.

SEC. 16. Said assessor may, in all cases where he deems the same expedient or proper, require any owner, agent, guardian or trustee of any personal property, or having money loaned at interest, subject to taxation, or capital employed in merchandise or exchange brokerage, to give in his list and the valuation thereof under oath, and the said assessor is hereby authorised to administer any oath or affirmation required by this section.

SEC. 17. If any person resident of the county in which his property is subject to taxation, shall fail or refuse to give in a list of the same, when requested by the assessor, agreeably to the provisions of this act, or shall fraudulently omit to give in any part of his, her or their property hereinbefore required to be listed, the assessor shall list and take a valuation thereof, from the best information he may be able to obtain, as in the 6th section of this act required.

SEC. 18. Each assessor shall, on or before the first day of September, A. D. 1835, and annually thereafter, on or before the first day of May, deliver to the clerk of his proper county the list of his assessments, made as aforesaid, particularly noting the number of acres in each congressional township, or fractional township, properly verified by affidavit, to be by said clerk laid before the board doing county business at their next subsequent term.

SEC. 19. The board doing county business at their term next after the return of the assessment rolls of the assessors as aforesaid, shall carefully compare the additions of the number of acres on said lists with the additions of the same townships on the tract book deposited in the clerk's office; and if found to be less than the number of acres taxable, according to said tract book, they shall order the clerk, previously to making out the duplicate, to correct such omissions by the tract book, and shall proceed to hear and determine the complaint of any owner or owners of any property contained in said assessment-rolls relative to the listing or valuation, and to correct the same as right and justice may require; and said board shall have power to equalize the valua- May equalize

by the owner is true &c.

Assessor may require list to be given in under oath.

Owner failing to give his list, assessor shall list and make valuation from the best information he can obtain.

List of assessments when to be delivered to the clerk.

County board shall compare roll with the tract books and order corrections.

Shall hear complaints.

the valuation of the lands in the respective townships of their lands of respective townships, which they shall do by adding to, or deducting from, the aggregate valuation made by the assessor of such township, such per centum as they may deem necessary to equalize the valuation of the lands of such township with the other townships of the county.

Clerk of the board shall note corrections.

SEC. 20. The clerk of such board shall carefully note all corrections of the listings, assessments and valuations which may be made by said board; and also correct the valuation of the lands of such township according to the per centum ordered by said board to be added to or deducted therefrom.

Sec. 21. The clerks of the respective counties, shall also, on or before the first day of December, 1835, and on or before the first day of July in each year thereafter, transmit to the Auditor of public accounts, a certified copy of the collector's bond, and a statement of the valuation of the property in his county, setting forth separately, the aggregate valuation of all lands, together with the number of acres in each congressional township or fractional township, also town in and out-lots, and the improvements thereon liable to taxation, the aggregate valuation of all personal property subject to taxation, the aggregate amount of all monies loaned at interest, of the capital of merchants of exchange-brokers, and of the capital in public stocks vested in monied or other corporations, showing fully the whole amount of the valuation of the property in such county liable to taxation; which statement shall be laid before the General Assembly on or before the expiration of ten days from the said first day of December.

SEC. 22. All taxes necessary for the support of the government of this state, shall be assessed on the grand levy, in an equal and rateable proportion, in manner following, to wit: The per centum necessary to be charged on the dollar on said grand levy, for the purpose of defraying the state expenditure, shall be fixed from time to time by law: the board doing county business in each county shall, at their annual meeting in May, determine the per centum necessary to be levied for the purpose of defraying the expenditures of their respective counties, and also the per centum necessary to be levied for road purposes not less than one fifth part of the per centum levied for State purposes.

Road purposes.
Clerk of circuit court to make out duplicates.

SEC. 23. The clerk of each county in this State shall annually, from and after the time when the provisions of the twenty third section of this act shall have been

Copy of collector's bond, and a statement of the valuation of property shall be transmitted to Auditor by clerks.

Auditor shall lay statement before Legislature.

Rate &c. of taxes for state and county purposes how fixed.

✓
Road purposes.

Clerk of circuit court to make out duplicates.

acted upon and carried into effect, make out complete and perfect duplicates of the assessment rolls or tax lists from the assessments returned by the respective assessors, and the corrections thereof made by the board doing county business, one of which shall be retained by him in his office among the files of said board doing county business, and the other, he shall deliver to the proper officer whose duty it may be to collect and receive the revenue herein provided to be levied and collected; which last mentioned duplicate shall be directed to such officer with a precept in the name of the State, tested by the clerk, and under the seal of the board doing county business, commanding him to collect and receive the taxes charged in said duplicate according to law, and that he pay over the moneys collected by him by virtue of said precept as required of him by the statute in such case made and provided, and the collector shall pay over to the state treasurer all state revenue, on or before the second Monday in December in every year; and all county funds collected for county purposes into the county treasury on or before the first Monday in March in every year.

State and country revenue when to be paid into the respective treasuries.

SEC. 24. Whenever any person shall discover, during the time he is making his assessments, any lands or town lots which have not before been listed or entered on the assessment rolls of the county, it shall be his duty to enter and value the same on his roll, as other lands or town lots are entered and valued, noting the facts in his return.

SEC. 25. It shall be the duty of every person whose lands or town lots are subject to taxation but which are not entered in his name for taxation, to enter the same on or before the first day of January, in each year.

Whenever by a sale or partition of any lands or town lots, a transfer thereof may be necessary on the tax list or duplicate, the same may be made by the seller and purchaser, or the person making partition thereof agreeing thereto, before the clerk, or by either party producing to said clerk a written certificate thereof signed by the parties interested, describing the tract or tracts of land, or the part or parts of town-lots to be transferred on such tax duplicate. No sale or conveyance of any land or town lot which may stand entered for taxation shall have any effect upon charging the same with taxes until the proper transfer shall have been made as aforesaid, but such land or town lot shall be liable to be charged with taxes and forfeited and disposed of for the same, and the said taxes shall be collected thereon in the

Lands &c. not before listed shall be entered on the rolls on discovery, by assessor.

Duty of persons owning lands or town lots subject to taxation.

Transfer on tax list where the property has been sold, how made.

Clerk shall enter transfer of sales &c. under judgments. same manner as if no sale or conveyance had taken place: *Provided however,* that such clerk shall be bound *ex officio* to note and make the proper transfer of all sales and conveyances under any judgment or decree of the Circuit or Probate court of his county.

Lien for taxes when attach. SEC. 26. The lien of the state for all taxes for state and county purposes shall attach on all lands and town lots, on the first Monday in January, in each year, which lien shall be perpetual for all such taxes, and the interest and penalties thereon; and all taxes on personal property shall have preference to all other claims and demands.

Poll tax. SEC. 27. That there shall be assessed on each male inhabitant over the age of twenty-one, and under the age of fifty years, the sum of $37\frac{1}{2}$ cents for the purpose of state revenue; and the board doing county business may assess for county purposes, on each person within the ages aforesaid, a sum not exceeding $37\frac{1}{2}$ cents, which taxes so assessed as aforesaid shall be collected as other taxes.

Compensation to assessor. SEC. 28. Each assessor shall keep a correct and accurate account of the time actually spent and the services performed under the provisions of this act, and lay the same before the board doing county business; and such board shall examine such assessor under oath or affirmation touching the truth of his account, and may propound to him such questions touching the same, as they may deem proper; whereupon such board shall make to the assessor such allowance as they shall consider sufficient compensation for his services, to be paid on the order of the board, as other moneys are usually paid, out of the county treasury; and the clerk of said board shall, in like manner, keep an account of his services herein required, and the said board may make to him such additional allowance therefor as to them may seem just:

To clerk of c'ty board. *Provided however,* that if such assessor or clerk shall feel himself aggrieved by the decision of the board in the premises, such assessor or clerk, within thirty days thereafter, may take his appeal to the proper Circuit Court, who shall hear and determine the matter as the said board is directed and required to hear and determine the same. The decision of which Circuit Court thereon shall be final between the parties.

Appeal. SEC. 29. The following forms and directions shall be substantially pursued by the respective officers therein named, in executing the duties respectively assigned them.

Forms.

Form of an Assessment-roll required by the 5th section of this act to be delivered by the Clerk to the township Assessor.

	Taxable Inhabitants.					
	Description of tract of Land.					
	Section.					
	Township.					
	Range.					
	Acres.					
	Hundredths.					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">$\frac{3}{4}$</td> <td style="width: 90%;">Value of lands and taxable buildings.</td> </tr> <tr> <td style="padding-left: 10px;">cents.</td> <td></td> </tr> </table>		$\frac{3}{4}$	Value of lands and taxable buildings.	cents.	
$\frac{3}{4}$	Value of lands and taxable buildings.					
cents.						
	Names of Towns.					
	In-lots.					
	Out-lots.					
	Parts of in-lots.					
	Parts of out-lots.					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">$\frac{3}{4}$</td> <td style="width: 90%;">Value of lots and improvements.</td> </tr> <tr> <td style="padding-left: 10px;">cents.</td> <td></td> </tr> </table>		$\frac{3}{4}$	Value of lots and improvements.	cents.	
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$\frac{3}{4}$	Cattle over two years.					
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$\frac{3}{4}$	Hogs over one year old.					
cents.						
	Merchant's capital.					
	Broker's Capital.					
	Value of Corporation Stock.					
	Value of Law Libraries.					
	Value of Medical Libraries.					
	Money at Interest,					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">$\frac{3}{4}$</td> <td style="width: 90%;">Aggregate value of all other taxable property not specified.</td> </tr> <tr> <td style="padding-left: 10px;">cents.</td> <td></td> </tr> </table>		$\frac{3}{4}$	Aggregate value of all other taxable property not specified.	cents.	
$\frac{3}{4}$	Aggregate value of all other taxable property not specified.					
cents.						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">$\frac{3}{4}$</td> <td style="width: 90%;">Polls.</td> </tr> <tr> <td style="padding-left: 10px;">cents.</td> <td></td> </tr> </table>		$\frac{3}{4}$	Polls.	cents.	
$\frac{3}{4}$	Polls.					
cents.						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">$\frac{3}{4}$</td> <td style="width: 90%;">Total amount of Taxables.</td> </tr> <tr> <td style="padding-left: 10px;">cents.</td> <td></td> </tr> </table>		$\frac{3}{4}$	Total amount of Taxables.	cents.	
$\frac{3}{4}$	Total amount of Taxables.					
cents.						
	REMARKS.					

Taxable Inhabitants.	Description of tract of Land.
Section.	Township.
Range.	Merchant's capital.

Form of an affidavit required by the 2d section.

STATE OF INDIANA, **COUNTY, ss.**

Personally appeared before me, A. B., assessor of township, in said county, C.D., who being by me duly sworn, makes oath and says that he served in the land (*or, as the case may be, naval*) service of the United States during the revolutionary war for three months, (*if he served a longer period, it may be so stated,*) C. D.

Sworn to this day of A. D.

A. B. Assessor.

* * * SEAL.

Form of an affidavit required by the 15th section.

Personally appeared before me, A. B., assessor of township, in said county, E. F., and delivered to me, as such assessor, the list of his taxable property; and the said E. F. being by me duly sworn, made oath, that the list of his property, as given in by him is true and correct to the best of his knowledge, and that the several kinds of property specified in his said list does not, according to the best of his judgment and belief, exceed in value the following sums to wit: (*insert the several kinds of property required to be separately designated by the assessor in his assessment roll, with the value of each annexed thereto.*)

Sworn to this day of A. D.

A. B. Assessor



The clerk in making out the assessment-roll for the assessor, as aforesaid, whenever he may be enabled to discover from the lists, duplicates, maps, or other evidence in his possession, who may be the owner or owners of any tracts or lots of land, shall enter the same on the roll, and such assessor shall assess the same from the best information he can procure, setting down in the proper column the name or names of the owner or owners thereof, if he can ascertain them, noting the facts in his return in the space left for remarks. The assessor will set down in the proper column the value of the several tracts or lots of land on his roll, and also the valuation of personal property, merchants' capital, &c., taken under the provisions of this act. Whenever said assessor shall discover any lots or tracts of land subject to taxation, not entered in his roll, he shall enter and value the same, noting such fact in his return. The clerk shall afford sufficient space in the roll for

entering a complete list of all the taxable inhabitants in the township, and the assessor shall enter therin, the names of all such as have not been entered as the owners of real estate, with the number of polls, property &c. subject to taxation, and the value thereof. N. B. This form can easily be so altered as to answer any grants or surveys varying from the present United States surveys, and will also answer for the form of a duplicate, by adding the proper columns for containing the amount of taxes respectively levied for state, county and road purposes, &c.

The clerk in making out his duplicates will insert therein the property of all non-residents, but in a part thereof separate from the other assessments.

*When to be in
force.*

SEC. 30. So much of this act as relates to taking the first list and making a valuation of property liable to taxation, shall take effect and be in force from and after its publication; and the residue thereof shall take effect from and after the 1st day of February, A. D. 1836: *Provided however*, that all taxes for the fiscal year eighteen hundred and thirty-five shall be assessed, levied, and collected in the same manner as if this act had never been passed, and all laws and parts of laws coming within the purview of this act, shall be continued and remain in full force for and during said fiscal year, for that purpose, and until the repeal of the same shall be necessary to carry into full effect, by future legislation, the provisions contained in this act.

CHAPTER XII.

AN ACT supplemental to an act, passed during the present session of the General Assembly, to provide for an equitable mode of levying the taxes of this state.

(APPROVED FEBRUARY 7, 1835.)

*Additional co-
pies to be print-
ed.*

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the state printer shall print and procure to be stitched, in pamphlet form, two thousand copies of the act aforesaid, so soon as practicable; and the Secretary of State shall forward to the clerk of each county, twenty copies of the same, for the use of the boards doing county business, and the respective assessors appointed under the provisions of said act.

SEC. 2. If in the opinion of the Secretary of State,

Pu.

Value of Merchant's capital.

REMARKS.

In addition to the above remark shall certify the amount land assessed in each Con-ownship on a separate piece id transmit the same to the h his returns.

Form of the Clerk's return to the Auditor of Public Accounts, required by the 21st section of this act

COUNTIES.

NOTE.—In addition to the above return the clerk shall certify the amount of acres of land assessed in each Congressional township on a separate piece of paper, and transmit the same to the Auditor, with his returns.

the laws of the present session cannot be distributed to distributed.
the respective counties as soon as the twenty-fifth of April
next, it shall be his duty, if no other safe and speedy con-
veyance occur, to transmit the said number of copies by
mail, to the clerks of the respective counties, discharging
the postage thereof out of the contingent fund. And it
shall be the duty of each clerk, upon the reception of the
same, to endorse on one of said copies, to be by him fil-
ed in his office, the time of its reception: and said act Declaring said
act to be in
shall be taken and deemed to be in full force from and
after the date of such endorsement, so far as the same is
intended to be in force from and after its publication.

SEC. 3. This act shall be printed with the act to
which it is supplemental, and shall be in force from and
after its passage.

CHAPTER XIII.

AN ACT supplemental to an act entitled "an act regulating the practice in
suits at law," approved January 29, 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That to any special plea of payment, setting forth matter of set-off, as provided in the twenty-sixth section of the act to which this is supplemental, the plaintiff or plaintiffs may reply as many several matters in fact as he, she, or they may deem necessary; *Provided however,* that a replication of the statute of limitations to any such plea of set-off, shall only operate to prevent a recovery by the defendant or defendants, of any excess of the amount of such plea, over and above what the plaintiff or plaintiffs may be entitled [to] in said action.

Replication of
statute of limit-
ations, to what
extent it shall
operate.

SEC. 2. After or before any issue in fact is joined in a suit at law, any one who is party to the same may withdraw any pleading on his part subsequent to the declaration, and file a demurrer to the next previous pleading of his adversary, at any time before trial.

Pleading may
be withdrawn
and demurrer
put in any time
before trial.

SEC. 3. That in judgments on writs of scire facias for execution on any judgment at law, interest on the sum due, or costs, or both as the case may be, shall be allowed, and included, if the case admit of it.

Interest, &c.
shall be allowed
on judgments on
scire facias for
execution on
judgments at
law.

SEC. 4. The property of any boarder, or occupier of a room at a tavern or boarding house shall not be liable to distress for rent due from the first lessee or lessees.

Property ex-
empt from dis-
tress for rent.

C

Sec. 2. If in the v...

When and how

When to be in
force.

SEC. 5. This act and the act amendatory of an act regulating the practice in chancery, approved February 10, 1831, passed at this session, shall be in force from and after their passage, and they shall be published in the Indiana Journal and Indiana Democrat.

CHAPTER XIV.

AN ACT in relation to the taking of depositions.

(APPROVED FEBRUARY 7, 1835.)

The name of the justice &c. before whom a deposition is to be taken, need not be inserted in the *deditus* or notice.

Be it enacted by the General Assembly of the State of Indiana, That hereafter in any *deditus potestatem* issued, or notice given for the taking of one or more depositions, it shall not be necessary to insert the name of the justice of the peace, judge, or notary public, by or before whom the same are to be taken, but such *deditus* may be directed to any such officer without specification of the name of such officer, and the notice may correspond therewith.

How to be au-
thenticated.

SEC. 2. Any depositions taken without this state on any *deditus* hereafter issued without such specifications, shall, in addition to the authentication now required, be certified by the clerk of the Circuit Court, County Court, Court of Common Pleas, or other court in the county where the same is taken, with his official seal thereto annexed, that the justice of the peace, judge, or notary public (as the case may be) by or before whom the same purports to have been taken, was at the time thereof such justice, judge, or notary public.

CHAPTER XV.

AN ACT in amendment to an act entitled "an act concerning clerks," approved February 1st, 1834.

[APPROVED FEBRUARY 7, 1835.]

Clerk may ad-
minister oaths
in certain cases

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the clerks of the Circuit Courts shall be authorised to administer all oaths, as it may be necessary for the parties their agents or attorneys to take

in conducting suits in the Circuit or Probate courts, and also all official oaths, which an officer elected to perform a duty in any county shall be required to take. The third section of the act to which this is an amendment is hereby repealed.

CHAPTER XVI.

AN ACT to provide for the further prosecution of the Wabash and Erie Canal and for other purposes.

(APPROVED, FEBRUARY 6, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of canal commissioners are hereby authorised to let out and put under contract so much of the Wabash and Erie canal as lies between the present termination of that portion now under contract, on the Wabash river, and Georgetown, at such time or times as in their opinion may best promote the interest of the state, having due regard to economy in the construction of the work.

SEC. 2. That the commissioners of the canal fund be, and they are hereby authorised and directed to contract with any individual, company, or corporation, at such times as they may deem most conducive to the interest of the state, for a loan or loans of two hundred and twenty-seven thousand dollars, to fulfil the contracts authorised and contemplated by this act, on a credit of fifty years; but redeemable in whole or in part after the expiration of thirty years. The said loan to be at a rate of interest not exceeding five per cent. per annum, and to be so negotiated that the same may be drawn and bear interest at the time, as nearly as practicable, when it will be required for the progress of the work on the canal; and the commissioners of the canal fund, shall, for such loan, issue transferable certificates of stock, in the name of the state, which, when signed, shall be valid: and to facilitate the purposes herein contemplated, the said commissioners shall have power to make such arrangements relative to obtaining loans, the payment of interest thereon, the transfer, transmission, and deposites of money, as they may deem conducive to the public interest.

SEC. 3. That for the punctual payment of the interest, State guarantees and the redemption of the principal of all the sums of money which may be loaned under the provisions of this ment.

Additional por-
tion to be put
under contract.

Loan of \$227,
000 authorised.

act, the faith of the state of Indiana is hereby irreversibly pledged.

Applications for damages to be made in writing and submitted to the board of appraisers.

SEC. 4. In all cases where applications for damages growing out of the construction of the Wabash and Erie canal, or the works connected therewith, have been made, or shall be made, for any lands, timber or stone, or other materials, which may have been taken for the location or construction of said canal under the provisions of the laws of this state; or for any lands, timber, stone, or other materials, which may be taken under authority of laws in force, for the location or completion of said canal, or any of the structures thereto appertaining, it shall be the duty of the board of canal commissioners, to file all such applications as have been or shall be presented in writing, and to submit them to the board of appraisers (hereinafter provided for) at their annual meeting; whereupon it shall be the duty of said board of appraisers, or a majority of them, to examine the premises, hear such evidence as shall be adduced relevant thereto, and make an equitable assessment of the damage (if any) which the respective claimants may have sustained, over and above the benefits conferred by the construction; and the said appraisers shall make regular entries of their award in each particular case, with a description of their premises, in a book to be provided and kept by the canal commissioners, and shall sign their names thereto, and when thus certified, it shall be the duty of the canal commissioners to pay the several awards to the individuals respectively, which shall vest the fee simple of the premises so appropriated in this state: *Provided however,* That no claims for damage shall be referred to the board of appraisers, unless the written application be made within two years after the materials shall have been taken possession of as aforesaid.

Canal comm'r's shall pay awards which shall vest title in the state.

Applications to be made in two years.

Governor shall appoint board of appraisers.

Their oath.

Shall visit canal annually.

Proviso.

SEC. 5. That the governor of the state shall appoint three disinterested persons to constitute a state board of appraisers, who shall, before they enter upon the duties of their appointment, severally take an oath or affirmation, before some person authorised to administer oaths, faithfully and impartially to perform the duties imposed upon them; a copy of which oath or affirmation shall be presented to the board of canal commissioners; and it shall be the duty of said appraisers to visit the canal once during each year for the purpose of assessing damages, provided they be notified by the canal commissioners, that there are claims to be adjusted, and the time and place of their meeting shall be appointed by said

commissioners; and said appraisers shall each receive for their services the sum of Compensation dollars per day, vide supplement. during the time they may be employed in the service of the state.

SEC. 6. That whenever in the opinion of the board of canal commissioners there shall or may be surplus water to be sold or leased for hydraulic purposes over and above the quantity required for navigation of the Wabash and Erie canal, or in any of its feeders, or at any dam erected at the expense of the state, or where the water which shall or can be passed around any lock from one level to another without injury to the navigation, may be sufficient to propel hydraulic machinery, the said commissioners are hereby authorised to cause such surplus water, with such portions of ground belonging to the state as may be necessary to its use, to be sold or leased to the highest bidder for hydraulic purposes, under such conditions and reservations as they may deem necessary and proper, for a certain annual rent or otherwise, as they may deem most beneficial to the state: *Provided however,* that no water-power shall be sold or leased, unless the ground on which it is proposed to be used, shall be the property of the state. Proviso.

SEC. 7. That every lease, grant, or conveyance of water-power, shall contain a reservation or condition, that the state or its authorised [agents] may at any time resume the right to use the water or any part thereof, whenever it may be deemed necessary for the purposes of navigation, or whenever its use for hydraulic purposes shall be found in any manner to interfere with the convenient navigation of the canals; and whenever such privilege may be resumed in whole or in part, the sum paid therefor, or such portion thereof as may, upon equitable principles, be determined upon, agreeably to the stipulations of the lease or deed of conveyance aforesaid, shall be refunded to the purchaser or lessee, his heirs or assigns. Condition of sale or lease.

SEC. 8. That all moneys received for the rent or sale of any hydraulic power granted or conveyed under the provisions of this act, shall be paid over to the commissioners of the canal fund, and shall constitute a part of said fund. Monies receiv'd for rent &c. to constitute a part of canal fund.

SEC. 9. That the Wabash and Erie canal shall be so located as to cross from the north side of the Wabash river to the south side, between the mouth of Eel river and the head of Ballard's bluff; and it shall be the duty of the board of canal commissioners to select the place of crossing the said Wabash river between the points Place of crossing the Wabash

aforesaid, and they shall decide whether the canal shall cross the river by means of an aqueduct, or in the pool of a dam; and in making this decision, they shall have due regard to economy in construction and repairs, and to the damages which individuals may sustain, and also to the safety of navigation when completed. And the line of the said canal shall be located and continued on the south side of the Wabash river, from the point where it crosses the same to the mouth of Tippecanoe river.

Canal route down White river to be surveyed.

SEC. 10. That the canal commissioners are hereby authorised and directed, and it is hereby made their duty, early in the ensuing summer to employ a competent engineer or engineers, to survey and locate a route from a suitable point on the Wabash and Erie canal, thence by the way of Muncietown on the west fork of White river *via* Indianapolis, to a point at or near the junction of the White rivers, and thence to some suitable point on the Ohio river: *Provided*, that if it should not be found practicable, to construct a canal from thence to the Ohio river, said engineers shall then survey a route for a canal from thence to some suitable point on the Wabash river; a plat of which said survey, when completed, shall be filed in the office of the secretary of state by the engineer.

Report to legislature.

SEC. 11. It shall be the duty of the engineer to make estimates of the expense of said canal route, with its practicability or impracticability, and lay the same before the General Assembly at their next session, and all such other matters as he may deem advisable.

Wabash and Erie canal to be located from Fort Wayne to the Ohio line, &c.

SEC. 12. The said commissioners shall in like manner cause to be surveyed and located the Wabash and Erie canal from Fort Wayne to the Ohio line; a detailed report of which surveys and examinations, together with an estimate of the practicability, cost, and probable utility of the said works, with such other matters connected with the same, as the said commissioners may deem expedient, they shall lay before the legislature as early during the next session as practicable.

Gov. directed to employ engineers to make surveys of said roads &c. Madison and Crawfordsville route. Crawfordsville & N. Albany.

SEC. 13. The governor of this state is hereby authorised and directed to employ a competent engineer or engineers, who shall, during the ensuing summer or fall, make an examination, survey, and estimate of a route for a rail road or a turnpike, from Madison by the way of Indianapolis, Danville, and Crawfordsville, to Lafayette; also a route for a rail or turnpike road from Crawfordsville by the way of Greencastle, Bloomington, Bed-

ford and Salem, to New-Albany; and also a rail road from Evansville to Vincennes *via* Princeton; a detailed report of which surveys and estimates, the cost of construction, the practicability and probable utility of which works the said engineer shall report to the next legislature, at as early a day as possible.

Evansville and Vincennes.

SEC. 14. The governor is hereby authorized and directed to appoint some suitable person as a commissioner, for the purpose of receiving releases along the line of the White Water canal; and also to take releases and conveyances of suitable timber, stone, and other materials for the construction of said canal; and the said commissioner shall, before the next session of the legislature, receive from all owners of property along the line of said canal, as well as the owners of property through which said canal may pass on either side of the river, should any change be made in the line, who may be willing to execute the same, releases of the right of way, and of all damages to such property by the construction of said canal; which releases when executed by any owner of property to be affected by said canal and attested and certified by said commissioner, shall forever be a bar to any claim for damages by any such person; which said releases shall be filed by the said commissioner in the office of the secretary of state previous to the next session of the legislature.

Commissioner to be appointed to take releases along White Water canal.

SEC. 15. The canal commissioners shall cause to be made, as soon as practicable, a survey and estimate of the cost of a construction of a continuation of the Wabash and Erie canal from Lafayette to Terre-Haute, a detailed report of which survey and estimates of costs, shall be laid before the next General Assembly, as early in the session as possible.

Releases to be filed in office of the secretary of state.

A survey and estimate of the cost of constructing W. and E. canal from Lafayette & Terre Haute.

SEC. 16. That said engineers shall examine a route for a canal from or near Indianapolis to the Ohio river, at or near Jeffersonville, and if found not practicable to construct a canal between said points, then said engineers shall survey a route for a rail or turnpike road from Jeffersonville to intersect the rail road line in this act directed to be surveyed from Madison to Indianapolis, at or near Columbus; and report the same with the proper estimates for either kind of improvement as directed for other surveys of a like nature.

Canal r'te from Indianapolis to Jeffersonville to be examined & rail road part of the distance in certain event.

SEC. 17. That a survey and estimate of the probable cost of constructing a McAdamized turnpike road from New-Albany *via* Greenville, Fredericksburgh, Paoli, Mount Pleasant and Washington, to Vincennes, and of

Survey &c. of a McAdamized road from New Albany to Vincennes to be made.

constructing and erecting bridges across the east and west forks of White river on said road, be made as is provided for the survey of the New Albany and Crawfordsville road.

Rail road from Terre-Haute to Vincennes to be surveyed.

SEC. 18. That the said engineers be instructed, and it is hereby made their duty to cause a survey to be made by some suitable engineer, of a route for a rail road from Terre-Haute to Vincennes, and report the same with an estimate of the probable cost of constructing the same, to the next General Assembly.

Survey of Lawrenceburg route to be completed.

SEC. 19. It shall be the duty of the governor, at as early a period as possible after the passage of this act, to employ some competent and suitable engineer, whose duty it shall be to proceed under the direction of the board of directors, to complete the survey and estimates on the Lawrenceburg and Indianapolis rail road.

Expense, how paid.

SEC. 20. The expense of the several surveys hereby authorised, and also the expense of taking the releases of damages on the White Water canal, shall be defrayed out of the moneys hereby appropriated to the Wabash and Erie canal, the amount of which shall hereafter be refunded by the state to the said Wabash and Erie canal. The several plats and estimates of the cost of construction of the several works by this act contemplated, shall be verified by the affidavit of the persons making the same respectively, to the best of the affiant's knowledge and belief.

Fund comm'rs to make to the auditor semiannual reports.

Auditor's duty.

Compensation.

Committee of general assembly to examine books.

SEC. 21. It shall be the duty of the canal fund commissioners of the Wabash and Erie canal, to make to the auditor of public accounts, semi-annual reports, viz: at 1st of June and 1st of December annually, of all their receipts and payments, on account of the Wabash and Erie canal fund, accompanied by the proper vouchers, which report shall be by the auditor entered in proper books to be by him kept for that purpose; and he shall annually make to the General Assembly during the second week of the session, a report in relation to said canal, and for his services shall receive the sum of fifty dollars per annum.

SEC. 22. A committee of both Houses shall annually examine said books, and compare the same with the accounts kept by the canal fund commissioners.

CHAPTER XVII.

AN ACT supplemental to an act entitled "an act for the further prosecution of the Wabash and Erie canal, and for other purposes," which passed the present session of the Legislature.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the persons composing the state board of appraisers according to the fifth section of the act to which this act is supplemental, shall receive for their services, for each day they are necessarily employed in the service required of them by said act, and also in going to and returning from the place where it may become necessary to perform such service, the same compensation as is allowed by law to the canal commissioners on the Wabash and Erie canal.

Compensation to board of appraisers.

SEC. 2. That the expense incurred in the survey made by William Gooding, under the direction of the canal commissioners, of the canal line from the mouth of Tippecanoe to Lafayette, is hereby directed to be paid out of the canal fund, and so much thereof as has been advanced by individuals, shall be deposited by the canal commissioners, in the county treasury of Tippecanoe county, for the use and benefit of those who may have advanced the same.

Expenses of the survey of the canal line from Tippecanoe to Lafayette to be paid.

SEC. 3. The canal fund commissioners are hereby directed to pay, upon the order of the governor, all such sums as may be necessary to defray the expenses of taking the releases upon the line of the White Water canal and also such sums as may be necessary to defray the expense of procuring an engineer or engineers, and making the several surveys authorised to be made by the governor, by the act to which this is a supplement.

Expense of surveys &c. to be paid by the fund com'rs on order of the governor.

SEC. 4. That the engineer who may be appointed to survey a route for a canal from some eligible point on the Wabash and Erie canal by the way of Muncietown and Indianapolis, down the valley of White river, is hereby authorised to strike the White river valley above or below Muncietown, and as near thereto as practicable, if upon examination he shall discover that it will be impracticable to run said survey to the town last aforesaid, any thing in the act to which this is a supplement, to the contrary notwithstanding.

Point where the White river canal shall strike White river valley.

This act to take effect and be in force from and after its passage.

CHAPTER XVIII.

AN ACT to amend the act to regulate general elections.

(APPROVED FEBRUARY 7, 1835.)

Sec'y of state shall certify to prosecuting attorneys omissions of clerks. Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the secretary of state, to certify to the respective prosecuting attorneys, all or any omissions, by the clerks of Circuit Courts in their several prosecuting circuits under the act to regulate general elections, approved, January 30, 1831; and for any omissions in such certificate or certificates, it shall be the duty of the prosecutors, to institute suits or prosecutions against each and every clerk in their respective circuits, so guilty of omissions as aforesaid.

This act to be in force from and after its publication,

CHAPTER XIX.

AN ACT in amendment of the act approved January 22d, 1834, entitled "an act authorising the seizure of boats and other vessels for debt," and the act in amendment of the same, approved February 1st, 1834.

(APPROVED FEBRUARY 7, 1835.)

Materials for repairs, &c. sold after a boat shall have started on her voyage, remedy for. Be it enacted by the General Assembly of the State of Indiana, That after a boat or vessel of any description shall have started on her voyage, and any person shall sell to the captain, commandant, master, consignee, or any officer of said boat or vessel, materials for her repair or equipment, or wood or coal for fuel, or provisions to be made use of by the crew or passengers, during said voyage, or any articles not being freight, or cargo, and which is designed merely to enable said boat or vessel to prosecute her voyage from port to port, said person making affidavit of the truth and justice of the demand, shall have the same remedy and obtain judgment in the same manner as is provided for by the act entitled "an act authorising the seizure of boats and other vessels for debts, approved January 22d, 1824," and the act in amendment of the same, approved February 1st, 1834.

Process, what shall be service of. SEC. 2. It shall not be necessary to serve the process upon the officer or consignee with whom the contract

was made, in order to obtain judgment, in cases arising under this act, or the acts of which this is an amendment, if due diligence has been used by the officer having the process, to do the same without being able to effect it, but in such case service upon the clerk, or any other officer of said boat, if said clerk cannot be found, or in case that cannot be done, service by a copy left or affixed in some place in said boat or vessel, easy to be seen, shall be sufficient service to authorise judgment.

SEC. 3. Should any person prevent, resist or obstruct the execution of process contemplated by the provisions of this act or the acts to which this is an amendment, or shall prevent, obstruct or resist any process which may be served or attempted to be served upon any boat, vessel or water craft, or any officer or persons which may be aboard such boat, vessel or water craft, or suffer or permit it to be done in any way when it is in the power of said person to prevent it, said person shall be liable in an action of debt to any person who will sue for the same in one year afterwards, which action may be brought before any justice of the peace in any township and county in the state, where the person or persons so offending may be found, and said person who shall thus sue shall not recover less, if judgment be obtained in his favor, if he sue before a justice of the peace, than ten dollars, nor more than one hundred dollars; and if he sue in the Circuit Court, not less than ten nor more than five hundred dollars, together with costs of suit.

Liability for
obstructing &c.
service of pro-
cess.

CHAPTER XX.

AN ACT to amend "an act to regulate marriages," approved February 4, 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That if any clerk of a Circuit Court shall grant a license for the joining in marriage of any male minor under the age of twenty-one years, or female minor under the age of eighteen years, without the consent of his or her parents, or surviving parent, guardian or guardians (if such parent, or parents, guardian or guardians live within the state) either verbally given, or in writing attested by a credible witness, who shall make oath before such clerk, that he heard such parents

Penalty on cl'k
for issuing li-
cense to minors
without consent
of parents &c.

Bond of indemnity, void.
or surviving parent, guardian or guardians consent to such marriage, and subscribe such writing purporting to be such written consent, he shall, for every such offence, be subject to pay the father or surviving mother, guardian or guardians of such minor, any sum of money not less than one hundred dollars nor more than one thousand dollars, with costs of suit, to be recovered in an action on the case, before any court having jurisdiction thereof; and any bond given to, or any contract made with any clerk, or to or with any person or persons for the use and benefit of any clerk, to keep him secure from damages for granting a marriage license, shall be void.

Consent of resident parent sufficient.

SEC. 2. If both parents of such minor be alive, one only of whom shall reside within this state, the consent of such resident parent, obtained or proved in manner aforesaid, shall be a sufficient authority to the clerk to grant such license.

Consent of guardians not required &c. if either parent resides in the state.

SEC. 3. No such consent shall be required of, nor shall any such cause of action accrue, to any such guardian or guardians, if either of the parents of such minor is residing within this state.

Jurisdiction of court & process.

SEC. 4. The Circuit Court of any county adjoining the county of the Circuit Court of which the defendant is clerk, shall have concurrent jurisdiction of any such action mentioned in the first section of this act, and process may issue in such case into, and be directed to the sheriff of, any other county in the state against such defendant.

This act to operate prospectively only.

SEC. 5. This act shall be so construed as to have a prospective operation only, and any liability incurred or right of [action] accrued within the purview or under the provisions of the act to which this [is] an amendment, shall not be affected or impaired by the passage of this act, but further proceedings by suit or otherwise, may be had on any such liability, and for the coercing or recovering any such right, in the same manner as though this act had not been passed.

Penalty &c. where minors reside in other states.

SEC. 6. If any clerk shall grant a license for the joining in marriage of any male minor under the age of twenty-one years, or of any female minor under the age of eighteen years, such minor residing in another state, and having a parent or guardian living in such other state, without the consent of such parent or parents, guardian or guardians (as the case may be) or proof thereof as required by the first section of this act, he shall, on conviction thereof, be fined in any sum not exceeding one thousand dollars nor less than one hundred dollars, together with costs of suit.

**Sec. 7. The fourth section of the act to which this is Repeal
an amendment is hereby repealed.**

CHAPTER XXI.

AN ACT to amend the act entitled an act incorporating Congressional Townships and providing for public schools therein, approved, February 2d, 1833.

[APPROVED FEBRUARY 7, 1835.]

SEC. 1. [Be it enacted by the General Assembly of the State of Indiana,] That every pupil over the age of twenty-one years, attending a district school, shall be taken into the enumeration for a distribution of the dividends of the school fund as though such pupil were under that age.

SEC. 2. In the loaning of school funds it shall not be necessary for the applicant to make oath that a patent for the land proposed to be mortgaged has been issued to any particular person.

SEC. 3. Land sold under the provisions of the act to which this is an amendment shall not be forfeited for the non-payment of the interest on the residue of the principal, until the end of six months from the time that either becomes due: *Provided*, That after sixty days, until paid, the rate of interest shall be charged at the rate of one hundred per cent. per annum.

SEC. 4. That the boards doing county business, in making allowances to school commissioners, shall not allow a daily compensation to any such commissioner for any service rendered on any day in which he by law has a right to charge specific fees.

SEC. 5. Any inhabitant who is so situated as to render it inconvenient for him or her to send pupils to the school of the district in which he or she may reside, shall have the privilege, on the certificate of the school trustees of his township, approving the same, of sending any pupil or pupils of his or her family to any other district school, within the same or the adjoining township; any inhabitant of any school district which has no school organized therein shall have the same privilege: *Provided*, That no such non-resident pupils shall be entitled to such privilege without the consent of the school trustees of the school to which they are proposed to be sent.

Pupils over the age of twenty-one taken into the enumeration.

Patents for lands proposed to be mortgaged need not appear to whom issued.

Land sold under former act when forfeited for non-paym't of interest on residue of principal.

Duty of county board in making allowance to school commrs.

Inhabitants of one district may send to school in another &c.

Proviso.

List of non-resident pupils to be kept by the teacher &c.

SEC. 6. The teacher of any district school shall keep a list of all non-resident pupils sent to his or her school, in the same manner that he or she is requested [required] to keep a list or account of resident pupils, and at the expiration of every three months, or upon such non-resident pupils' quitting such school, the teacher shall give the person sending such pupils a certificate of the number of days so sent, counting each day's attendance of each pupil as one, which shall be sworn to by such teacher.

Proportion offered may be drawn by any resident sending to another sch'l &c.

SEC. 7. Any resident of one organized district sending to school in another as above provided, shall, upon the certificate of the teacher of such school, be entitled to draw from the district treasurer in which such person may reside, so sending to school, the same proportion of the school funds that he or she would have been entitled to, had he or she sent to a school in his or her own district.

Persons living in unorganized districts may draw &c.

SEC. 8. Any person residing in an unorganized district, who may send to school in another district or township, shall be entitled to draw of the township treasurer of which such person so sending to school shall be a resident, upon the certificate of the teacher as above directed, a similar proportion of the school fund for every three months sent to school, that organized districts in the same township are entitled to, for one person between the ages of five years and eighteen years of age for a similar term.

Teachers to be paid for time employed.

SEC. 9. That in all cases where a teacher has been prevented from teaching the full term for which he was employed, by reason of sickness or other good cause, his place may be supplied by another, to be selected by the district trustees, and such teachers be paid for the time they were respectfully [respectively] employed, upon satisfactory proof of service being made.

Report of township treasurer.

SEC. 10. That each school township treasurer shall annually, on the first day of the May term of the board doing county business, report to said board the amount of school funds and school property in his hands or under his care belonging to his school township, with a statement of the notes, accounts, debts, and credits of such township, the name of each lessee of land belonging to the inhabitants of such township; the amount of the rent, when and in what payable; the current expenditures of said township and the funds of said township in the hands of the school commissioner of the county.

Penalty for neglecting to report &c.

SEC. 11. Every such township treasurer failing to perform the duties and requisitions contained in the sec-

tion last preceding, shall, on conviction thereof by indictment be fined in any sum not exceeding one hundred dollars, and shall moreover be liable on his bond or otherwise to the inhabitants of his school township for all damages occasioned by such failure.

CHAPTER XXII.

AN ACT in furtherance of "an act to provide a fund to encourage common schools," approved February 2d, 1832.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That whenever three years shall have elapsed after any land or lots shall have been returned to the school commissioner, or officer acting as such, it shall be his duty to make out a correct list of all such land or lots, giving a description thereof, with the supposed owner's name, if known, and cause the same to be published four weeks successively in a newspaper printed in the county, or if no paper be printed in the county, then in a newspaper in the nearest county in which a paper is published; and he shall also give to the prosecuting attorney a copy of such list, on or before the first day of the next following term of the Circuit Court, held in the county in which such land is situated; and he shall also cause a written or printed statement thereof to be put up at the court house door the same length of time preceding the next Circuit Court; which notices shall express that unless the taxes, penalties, percentage, and cost be paid on or before the next sitting of the Circuit Court after the end of said four weeks, that a motion will be made for judgment on the second or some subsequent day of the term of said court, that any or all such tracts of land or lots on which any money is due as aforesaid shall vest in the state of Indiana.

List of land &c. returned to sch'l com't to be published after the lapse of three years.

SEC. 2. It shall be the duty of the prosecuting attorneys of the several courts, to move the court in the name of the state of Indiana, for a judgment that each tract or lot of land on which any money is due as aforesaid, shall vest in the state of Indiana: which motion shall be entered of record as founded on the school commissioners' list, and such motion shall be deemed equivalent to a declaration.

List to be given to the prosecuting attorney.

SEC. 3. The owner of any such tract of land shall have

Prosecuting attorney move the court for a judgment.

Defence of owner et.

the right to appear by himself, agent or attorney, and prove that he has paid all such taxes, and the taxes that may have accrued on such land or lot, if any, together with the additional penalty, percentage and cost, if any, to the proper officer; or shall have the right to prove payment or any part thereof, and bring the residue into court, to be paid to the proper officer, at the time of making such proof; and in such case no judgment shall be rendered against such tract or lot of land.

Judgment vesting land &c. in the state.

SEC. 4. If there be no proof, or the proof be insufficient on the part of the claimant, or the money so required to be brought into court, (if any,) be not so brought into court, the court shall give a judgment, order or decree that such land or lot shall vest in the state of Indiana; which judgment, order, or decree, shall absolutely vest the title to such tract or lot of land, in the State of Indiana for the use of the common schools of the county in which the same is situated.

SEC. 5. The school commissioner or officer acting as such, shall from time to time, sell all land so vested in the state of Indiana as soon as convenient; and in all other respects he shall be governed as near as possible in such sale (without contravening the provisions of this act) by the provisions of "an act incorporating congressional townships, and providing for public schools therein" approved [February] 2d, 1835: *Provided*, That no vote of the inhabitants of any county or of any part thereof shall be required to authorize such sale.

SEC. 6. The certificates of the school commissioners, or officers acting such, shall be *prima facie* evidence that the facts therein stated are true, and evidence of possessory title in any suit involving the same.

SEC. 7. The deeds made by the school commissioners, or officers acting as such, shall be *prima facie* evidence of contents.

Suit may be instituted within two years after entry of judgement for the recovery of land not subject to tax &c.

Deeds prima facie evidence of contents.

SEC. 8. The owner or owners of any such lot or land or any person or persons deriving title from such owner or owners, may at any time within two years after the entry of such order, judgment, or decree, if such lot or land was not subject to taxes, or the taxes thereon had been paid, (contrary to the statement of such return) institute a suit for the same, and if the plaintiff or plaintiffs succeed in such suit involving the title derived from the state as aforesaid, so as to oust or evict the purchasers, his or her heirs or assigns of such lot or land in whole or in part of the same, such purchaser, his or her heirs or assignees shall be entitled to receive from the school commissioner or other officer entrusted with the funds, the original purchase.

Purchaser under the state being ousted shall be entitled to purchase money without interest.

money of the land or lot of which he she or they shall be so ousted or evicted; without interest; but such purchaser, his or her heirs or assigns, shall in no case be liable for any rent for the use or occupation of such lot or land.

SEC. 9. The listers and their securities shall be liable for all damages sustained by improper listing.

SEC. 10. The collectors and their securities shall be liable for all damage sustained by any such collector making an improper return.

SEC. 11. School commissioners and officers acting as such, and their securities, shall be liable for all damages sustained by reason of any improper returns being made by them or either of them in the list furnished to prosecuting attorneys.

SEC. 12. The order, judgment or decree of a Circuit Court founded on any such return, shall be *prima facie* evidence that the taxes on the land or lot were unpaid, and that the same was subject to such taxes; and shall be conclusive evidence of the truth of such return and all the other proceedings and facts not in this section mentioned, on which such order, judgment or decree is predicated.

SEC. 13. Any such order, judgment or decree shall be Appeal, subject to an appeal to, or writ of error from the Supreme Court.

SEC. 14. Moneys raised by virtue of this act or the "act to provide a fund to encourage common schools" approved February, 2, 1832, shall, by the school commissioner of each county, or other officer acting in his stead from time to time, as the moneys may come into his hands, be paid to the order of the several township trustees, in the same manner as interest on the township money is now disbursed, according to the provisions of "an act incorporating congressional townships and providing for public schools therein" approved February 2, 1833: *Provided* however, that for the purpose of making an equal and just distribution of the fund contemplated by this act, it shall be the duty of the township treasurers to make return of the several lists returned to them by the teachers within ten days after receiving the same, to the school commissioners of the county or the person acting as such. The school commissioner shall upon the receipt of said lists, distribute the money to the several district treasurers in the same manner and in the proportion that each teacher's list bears to all the lists in the whole county, as is provided by the 175th and 176th sections of the last named act for the township treasurers to pay over money to the district treasurers.

SEC. 15. Each school district that is or may be desti- Appropriation

Liability of listers.

Liability of collectors.

Liability of school com'rs.

Judgment prima facie evidence that the taxes were unpaid, &c.; conclusive as to truth of return, &c.

Moneys raised by this act how disposed of.

Proviso.

to aid in building school houses.
tute of a school house, shall be entitled to draw and use out of its proportion of the fund provided for by this act or the act of which this act is in furtherance, any sum not exceeding fifty dollars, to aid the inhabitants thereof in building a school house, but no such district shall thereafter draw any money in any year that they do not maintain a school at least three months.

Com'r failing to make return to state treasurer not to affect title to land &c.

Return to treasurer of state.

Penalty for neglecting it.

Treasurer of state shall have suits brought, &c.

Penalties collected, how applied.

Duty of collector to return amount of state taxes, &c. unpaid.

Commissioner to compare collector's return with record of former returns, &c.

SEC. 16. The compliance or non-compliance of the school commissioners with the act of which this act is in furtherance, so far as it relates to making returns to the treasurer of state, shall in no way be construed to affect the title to any land or lots contemplated by said act or this act.

SEC. 17. It shall nevertheless be the duty of the school commissioners or officers acting as such, to make such returns annually; and any school commissioner neglecting to do the same, shall be liable to the penalty of fifty dollars, to be recovered by action of debt, to be brought by the prosecuting attorney, with the costs of suit; and the official certificate of the treasurer shall be *prima facie* evidence of such neglect.

SEC. 18. The treasurer shall inform the several prosecuting attorneys of the delinquency of school commissioners in making returns, and shall direct suits to be brought.

SEC. 19. The penalties collected from school commissioners under this act, shall be applied to the use of common schools of the counties in which the several delinquent school commissioners may respectively reside, to be divided in the manner provided in the 14th section of this act.

SEC. 20. It shall be the duty of said collector to embrace in his said return, the amount of state, county and other tax, if any, on each tract of land or town lot remaining unpaid at the time of making such return.

SEC. 21. For the purpose of enabling him readily to determine what taxes are due, and to prevent the penalty and percentage from being chargeable on more than one year's tax at once, it shall be the duty of the school commissioner so soon as the return is made to him by the collector, carefully to compare the return so made with the records on his book of former returns, and note on the margin of such last return each and every tract of land or town lot embraced in the same, and yet unredeemed and subject to the annual charge of one hundred per cent, and then proceed forthwith to record in his book, all the remaining tracts and town lots not so marked and noted as unredeemed as aforesaid.

Am't to be paid before owner can redeem.
SEC. 23. Before any owner shall be entitled to redeem, he shall besides the penalty and percentage contemplated by this act, also pay to the school commissioner or other officer, a sum equivalent to the yearly taxes assessed and unpaid on any such lots or land, to be applied as other moneys contemplated by this act.

SEC. 23. That it shall be the duty of the collectors of the several counties, previously to making return of their delinquent lists, to certify to the school commissioner of the proper county, or the officer acting as such, a description of the lands and town lots on which the taxes are not paid by non-residents or others, agreeably to the first section of the act to which this is amendatory, and before the boards doing county business shall allow, or the clerk certify to the auditor any delinquent list, the said collector shall be required to make affidavit that he has duly made such return to the school commissioner as is required by law.

SEC. 24. It shall be the duty of the Treasurer of state to make out and transmit to each school commissioner in this State, full and complete forms for their lists and returns; which the said commissioners shall so soon as they shall receive the same, record at full length in their books, and shall be governed by the same in the manner of making their returns and the said Treasurer for making out and transmitting said forms, shall be allowed such compensation as the Governor may deem reasonable to be paid out of the contingent fund.

SEC. 25. If any lot or tract of land belonging to a minor under the age of twenty one years, having no father living, or guardian within the state at the time of forfeiture shall by any such judgment, order or decree, be vested in the state of Indiana, such minor or minors, shall at any time before the expiration of one year from and after the time when such minor or minors shall arrive at the age of twenty one years, on prosecuting his, her, or their claim to such lot or tract of land to be entitled to receive from the school commissioner, the amount of the purchase money on the sale of such lot or tract of land made by the school commissioner as aforesaid, after deducting the amount of taxes, for the nonpayment of which said land or lot was returned by the collector.

SEC. 26. Three hundred copies of this act and the act which this is in furtherance of, in addition to those printed and bound with the other general acts shall be printed together and stitched in pamphlet form, with a strong paper cover, to be distributed to the several school commissioners and collectors.

Extra copies of this act &c. to be printed.

Minors, remedy of, whose lands have been sold, &c.

Expenses of carrying into effect this act, how paid.

Sec. 27. such necessary expenses and services as may be incurred in carrying into effect the provisions of this act, by school commissioners or other officers acting as such, shall be certified to the Board doing county business of the proper county and upon their approval and order, the amount shall be retained out of the moneys raised under the provisions of this act.

CHAPTER XXIII.

AN ACT to organize the county of Wabash.

(APPROVED JANUARY 22, 1835.)

Wabash.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That from and after the first day of March next, the county of Wabash shall enjoy all the rights and jurisdiction, which to separate and independent counties do or may properly belong.

Comm's to fix seat of justice.

Sec. 2. That Giles Smith of Grant county, Daniel Worth of Randolph county, Jesse Carter of Clinton county, Bartholomew Applegate of Johnson county, and Thomas Watson of Tippecanoe county, be and they are hereby appointed Commissioners, for the purpose of fixing the permanent seat of justice of the said county of Wabash, agreeably to the provisions of "an act to establish the seats of justice in the new counties," approved January 14, 1824. The commissioners above named or a majority of them shall convene at the house of David Burr in said county, on the third Monday of May next, or so soon thereafter as a majority of them shall agree upon.

Duty of sheriff of Huntington.

Sec. 3. It shall be the duty of the sheriff of Huntington county, to notify the commissioners above named either in person or by writing of their appointment, and place appointed for them to convene; and the board doing county business shall allow a reasonable compensation for services, out of any moneys in the Treasury of the said county of Wabash.

Sec. 4. Circuit and other courts of said county shall be held at the house of David Burr, or at any other place in said county, where said courts may adjourn to, until suitable accommodations can be furnished at the seat of justice thereof, after which the courts shall be held at the county seat.

Courts, where to be held.

Sec. 5. The agent who shall be appointed to superin-

Library fund.

tend the sale of lots at the county seat of said county of Wabash, shall reserve ten per cent. out of all donations to said county, and shall pay the same over to such person or persons as shall be authorised to receive the same, for the use of a county library for said county.

Sec. 6. The board doing county business of said county when elected and qualified, may hold special sessions not exceeding three the first year after the organization of said county, and shall appoint a lister, and make all other necessary appointments, and do and perform all other business which might have been necessary to be performed at any regular session, and take all necessary steps to collect the state and county revenue.

Sec. 7. The county of Wabash shall be attached to the eighth judicial circuit of the state for judicial purposes, to the county of Huntington for representative purposes, and be included in the fifth congressional district.

This act to take effect and be in force from and after its publication in the Indiana Journal.

CHAPTER XXIV.

AN ACT for the formation of the county of Noble.

(APPROVED FEBRUARY 7, 1835.)

Noble.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That from and after the first day of June next, all that tract of country included in the following bounds shall form and constitute a new county to be known and designated by the name and style [of] Noble county, (in honour of the late honourable James Noble,) to wit: beginning at the north east corner of township thirty-five, range eleven east, thence west with the township line, dividing townships thirty-five and thirty-six, to the range line, dividing range eight and seven east, thence south with said range line to the south-west corner of township thirty-three range eight east, thence with said range line dividing thirty-three and thirty-two, to the south east corner of township thirty-three, range eleven east, thence north with the range line, dividing ranges eleven and twelve, to the place of beginning.

CHAPTER XXV.

AN ACT laying out all the unorganized territory to which the Indian title has been extinguished in this State, into a suitable number of counties, and for other purposes.

(APPROVED FEBRUARY 7, 1835.)

Adams.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That all the territory included in the following boundary lines, shall constitute the county of Adams, viz: Commencing at the south east corner of Allen county, thence west with the southern boundary of said county, to the north east corner of section five in township twenty eight range thirteen, thence south with the section lines to the township line between townships twenty four and twenty five, thence east with the said township line to the eastern boundary line of the state, thence north with the state line to the place of beginning.

Wells.

SEC. 2. That all the territory within the following boundary lines shall constitute a county to be known by the name of Wells, viz: commencing at the north west corner of Adams county, thence west with the southern boundary of Allen county, to the south west corner of the same, thence south with the eastern boundary of Huntington county to the south east corner of the same, thence west to the north east corner of Grant county, thence south six miles to the township line deviding township twenty four and twenty five, thence east to the south west corner of Adams county, thence north with the western boundary of Wells county to the place of beginning.

Jay.

SEC. 3. That all the territory included within the following boundary lines shall constitute and form a county to be known by the name of Jay: beginning at the south east corner of Adams county, thence west to the eastern boundary of Grant county, thence south to the northern boundary of Delaware county, thence east with the northern boundary of said county, to the north east corner of the same, thence south to the north west corner of Randolph county, thence east with the northern boundary of said county to the state line, thence north to the place of beginning.

De Kalb.

SEC. 4. That all the territory included within the following boundary shall constitute a county by the name of De Kalb viz: beginning at the south west corner of township thirty three north of range twelve east, thence east with the line of Allen county to the line of the State

of Ohio thence north with said state line eighteen miles, thence west with the line dividing townships thirty five and thirty six to the line dividing ranges eleven and twelve east, thence south with said range line eighteen miles to the place of beginning.

SEC. 5. That all the territory included within the following boundary shall constitute a county to be known by the name of Steuben, viz: beginning at the south west corner of township 36 north, of range twelve east, thence east with the line dividing townships thirty five and thirty six north to the line, of the state of Ohio, thence north with the state line to the line of Michigan territory, thence west with the territorial line to the eastern boundary line of Lagrange county, thence south with said county line to the place of beginning.

SEC. 6. That all the territory included within the following boundary shall constitute a county to be known by the name of Whitley, viz: beginning at the north east corner of township thirty two north, of range seven east, thence east with the township line eighteen miles, thence south with the line dividing ranges ten and eleven east eighteen miles, thence west with the township line eighteen miles, thence north with the line of ranges seven and eight east, eighteen miles to the place of beginning.

SEC. 7. That all the territory included within the following boundary shall constitute a county to be known by the name of Kosciusko, viz: beginning at the north west corner of section three in township thirty four north, of range four east, thence east with the line dividing townships thirty four and thirty five north, twenty one miles, thence south twenty seven miles, to the south east corner of section thirteen, township thirty north, of range seven east, thence west through the centre of township thirty north, to the south east corner of section sixteen in township thirty north, of range four east twenty one miles, thence north through the middle of range four east twenty seven miles to the place of beginning.

SEC. 8. That all the territory included within the following boundary shall constitute a county, and be known by the name of Fulton, viz: beginning at the north west corner of township thirty one north, of range one east, thence east with the line dividing townships thirty one and thirty two north, twenty one miles, thence south with the sectional line, twelve miles to the south east corner of section thirty three in township thirty north, of range four east, thence west five miles, thence south six miles, thence west sixteen miles to the meridian line,

Marshall.

thence north with the meridian line eighteen miles to the place of beginning.

SEC. 9. That all the territory included in the following boundary shall constitute a county to be known by the name of Marshall, viz: beginning on the meridian line, at the south west corner of township thirty two north, of range one east, thence east twenty one miles, thence north with the sectional lines to the north-east corner of section four in township thirty four north, eighteen miles, thence west with the township line twenty one miles, thence south with the meridian line eighteen miles to the place of beginning.

Stark.

SEC. 10. That all the territory within the following boundary shall constitute a county to be known by the name of Stark, viz: beginning at the north west corner of township thirty four north, of range four west, thence east twenty four miles, thence south with the meridian line eighteen miles, thence west twenty four miles, thence north with the line dividing ranges four and five west, eighteen miles to the place of beginning.

Pulaski.

SEC. 11. That all the territory within the following boundary shall constitute a county to be known by the name of Pulaski, viz: beginning at the north west corner of township thirty one north, of range four west, thence east twenty four miles, thence south with the meridian line eighteen miles, thence west with the line dividing townships twenty eight and twenty nine north, twenty four miles, thence north with the line of ranges four and five west, eighteen miles to the place of beginning.

Jasper.

SEC. 12. That all the territory within the following boundary shall constitute a county to be known by the name of Jasper, viz: beginning at the south east corner of section thirty three, in township twenty four north, of range six west, thence west to the line of the state of Illinois, thence north with the state line thirty miles, thence east with the line dividing townships twenty eight and twenty nine north, to the north east corner of section four, township twenty eight north, of range six west, thence south with the sectional lines thirty miles to the place of beginning.

Newton.

SEC. 13. That all the territory within the following boundary shall constitute a county to be known by the name of Newton viz: beginning at the south east corner of township twenty nine north, of range five west, thence west to the state line, thence north with the state line thirty miles, thence east with the line dividing townships thirty three and thirty-four, to the north east corner of township thirty three in range five west, thence south

with the range line thirty miles to the place of beginning.

SEC. 14. That all the territory within the following boundary shall constitute a county to be known by the name of Porter, viz: beginning at the south east corner of township thirty four north, of range five west, thence with the line dividing townships thirty three and thirty four north, to the state line, thence north with the state line, to the north west corner of the state of Indiana, thence east with the northern boundary of Indiana to the eastern line of range five west, thence south with the line dividing ranges four and five west to the place of beginning.

This act to take effect from and after its publication.

CHAPTER XXVI.

AN ACT providing against trespassing animals.

(APPROVED, FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That if any domestic animal or animals, shall trespass by breaking into the enclosures of any person or persons, such person or persons being injured by such trespassing animal or animals, may apply to the fence viewers of the township, who shall forthwith repair to the place where such injury was done, and there diligently examine the fence over or through which such trespassing animal or animals broke or entered into any such enclosure.

SEC. 2. That if in the opinion of the fence viewers such fence is of sufficient height and strength, and in every respect such as good husbandmen generally keep, they shall proceed from view and inquiry to assess the damages sustained by such applicant from such trespassing animal or animals, which assessment including the sum due for their services, they shall certify and deliver to the person sustaining such damages.

SEC. 3. That if the owner or possessor of such trespassing animal or animals shall refuse to pay the said damages on demand, the person so injured may deliver said certificate to a justice of the peace of the proper township, who shall issue process thereon and proceed to judgment and execution as in other cases.

SEC. 4. That if in the opinion of the fence viewers Fence being in

Persons injured
by trespassing
animals may
apply to fence
viewers &c.

Damages to be
assessed by
fence viewers.

Owner of tres-
passing animals
may be sued on
certificate of
fence viewers.

sufficient person calling for the view to pay expense. the fence shall be insufficient, the person calling upon them to view and examine the same shall pay all costs of such view and examination, to be recovered by action of debt, at the suit of such fence viewers, with costs, before any justice of the peace in the proper township.

Compensation and liability of fence viewers. SEC. 5. That each of the fence viewers shall be entitled to receive fifty cents per day, for their services rendered under this act; and any fence viewer, who shall neglect or refuse to perform any of the duties enjoined on him by this act, shall be subject to pay a fine of not more than five dollars for every such neglect or refusal, to be recovered by action of debt, at the suit and for the use of the person injured by such neglect or refusal.

Liability for injury to trespassing animals. SEC. 6. Whoever shall kill or damage such trespassing animal or animals, by hunting or driving them from such enclosure, or in any other manner, intentionally, shall be liable for all damages so sustained, to the owner or owners of such animal or animals.

Repeal. SEC. 7. That so much of the act concerning enclosures and trespassing animals, approved February the seventh, eighteen hundred and thirty-one, as contravenes the provisions of this act, be, and the same is hereby repealed.

This act to take effect and be in force from and after its publication.

CHAPTER XVII.

AN ACT to amend an act entitled "an act for the relief of the securities of certain officers, approved Feb. 1, 1835.

[APPROVED FEBRUARY 7, 1835.]

Application to be discharged from subsequent liability may be made before the clerk in vacation. SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That where an executor, administrator or guardian, in any bond mentioned in the first section of the act to which this is an amendment, and in all cases where any court or board doing county business shall have approved any bond mentioned in said section, the application to be discharged from subsequent liability in that section mentioned, may in the vacation of such court or board, be made before the clerk of such court or board, who shall in such case have the same powers, and be subject to the same duties and regulations, in relation to such application, and in receiving and approving the additional bond

and security, and to any other matter pertaining to the premises, as such court or board would possess, or be subject to if such application had been made to such court or board.

Addit'nal bond how to be ap- proved. SEC. 2. If the expiration of the time mentioned in the summons issued by the clerk on such application shall happen during a subsequent session of the court or board which approved such bond, and if the additional bond and security is not given and approved before the commencement of such session, such court or board only, shall have the power to approve and receive such bond and security if given within the time required; and if the expiration of the time mentioned in the summons issued by any court or board shall happen in a vacation thereof, and if the additional bond and security is not given and approved before the close of the session during which such court or board issued said summons, the clerk of such court or board is empowered to approve and receive such additional bond and security.

Application &c to be filed with original bond. SEC. 3. Every such application, summons and additional bond, (if any be given and approved) which is required by the act to which this is an amendment shall be filed in the same depository with the original bond; and office copies of the same or either of them shall be **Copies prima facie evidence.**

Requisition of the summons. SEC. 4. The summons required by this act, and the act to which this is an amendment shall on its face require the principal in the bond, within three days after service on him made, to appear before the person or persons, body corporate, court or board or clerk (as the case may be) whose duty it is to receive and approve such additional bond with security, and give and execute the same with additional security, conditioned assuch former bond.

Penalty for refusing to give additional bond &c. SEC. 5. Should such principal fail or refuse to appear and enter into such additional bond with security approved as aforesaid, or to resign or otherwise vacate his office or trust, (as the case may be,) within the time limited in the summons, unless prevented by an absolute inability (other than an inability to procure such additional security) he shall on conviction thereof on indictment be fined in any sum not exceeding fifty dollars, and ten dollars for each week after the expiration of such limited time, during which he shall so fail or refuse, and be imprisoned in the county jail for any length of time not exceeding three months.

Repeal. SEC. 6. The third section and so much of the second

section of the act to which this is an amendment as provides that such summonses shall require the principal to appear within six days after issuing the same, to execute a further bond; and so much of said second section as gives the person before whom the cause therein mentioned is tried, power to try or continue the same, are hereby repealed.

CHAPTER XXVIII.

AN ACT to amend an act entitled "an act regulating the jurisdiction and duties of justices of the peace," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

Suit on official bond of constable or justice may be brought before a J. P. where the damages claimed do not exceed one hundred dollars.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That it shall hereafter be lawful for any person who may be entitled to an action on the official bond of any constable or justice of the peace for any breach of the condition of such bond, to bring an action of debt on such bond against such constable or justice of the peace and his or their securities, before any justice of the peace of the proper county, where the amount of damages claimed by the person bringing such action does not exceed one hundred dollars.

Statement to be filed three days before trial.

SEC. 2. Any person who may bring an action on such bond against such officer and his securities, shall, at least three days before the trial thereof, file before the justice before whom the same is to be tried, a succinct statement of the particular injury or wrong complained of, but he shall not be required to assign any specific breaches of the condition of such bond; and upon the trial of such cause, a copy of such bond, certified by the clerk, in whose office the same is filed, shall be deemed and taken as competent evidence, or the clerk in whose office the same may be filed, may be required by either party, by a subpoena *duces tecum*, to produce the original bond at the trial.

Certified copy of bond, evidence.

Original may be produced.

SEC. 3. On the trial of such action, it shall be lawful for any such defendant or defendants, to give in evidence any and all matters of defence, under the plea of the general issue, and in all other respects the justice trying such cause shall be governed by the several acts regulating the duties and jurisdiction of justices of the peace.

Any matter of defence may be given under general issue.

SEC. 4. Any person feeling himself aggrieved by the decision of any justice of the peace, in any case hereaf-

ter tried under the provisions of this act shall be entitled to an appeal to the Circuit Court under the same rules and regulations as in other cases.

SEC. 5. This act shall not be considered as affecting in any manner any of the remedies heretofore given on the official bond of any constable or justice of the peace.

CHAPTER XXIX.

AN ACT further regulating the jurisdiction and duties of Justices of the Peace.

(APPROVED FEBRUARY 7, 1835.)

Evidence in re-plevin.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That in all actions of replevin before justices of the peace, evidence may be given by, and shall be available for the defendant, of property in himself or in a stranger without specially pleading the same.

In trespass.

SEC. 2. That in all actions of trespass, before justices of the peace, the defendant may avail himself of any defence in evidence without specially pleading the same.

Omis'n to make oath in confession of judgment shall not avoid the judgm't.

SEC. 3. That wherever any justice of the peace shall omit to administer, or the defendant shall omit to make the oath or affirmation required by the twentieth section of an act entitled "an act regulating the jurisdiction and duties of justices of the peace," approved February 10th, 1831, in the case of a confessed judgment, no such omission shall avoid, annul or otherwise affect the validity of such judgment, at the instance of the defendant, his, or her heirs, executors, administrators or privies, but he, she or they, or either of them shall be estopped and precluded from taking advantage of such omission in any manner whatever.

CHAPTER XXX.

AN ACT to amend an act entitled an act regulating the duties of Justices of the Peace, approved February 10th 1831.

(APPROVED FEBRUARY 7, 1835.)

Mistake in form
of action no-
cause of non-
suit.

Proviso.

Be it enacted by the General Assembly of the State of Indiana, That the 26th section of the act to which this is an amendment, shall be so construed as that in all suits brought before justices of the peace a mistake in the form of action shall be no cause of non-suit; *Provided*, the plaintiff's cause of action be so stated as to fairly and fully inform the defendant or defendants, what he, she, or they are called upon to answer; and in like manner a mistake in the form of any defendant's defence shall not preclude him, her, them from giving any evidence under the same according to the justice and rights of such case: *Provided* such defence be so stated as to fully and fairly inform the plaintiff or plaintiffs what he, she, or they are called upon to answer.

This act to be in force from and after its passage.

CHAPTER XXXI.

AN ACT to amend the several acts regulating the jurisdiction and duties of Justices of the Peace, in the several counties herein named.

[APPROVED FEBRUARY 7, 1835.]

Suit in certain
counties to be
brought in the
township where
defendant re-
sides.

Exceptions.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That no person shall be bound to answer any summons or capias ad respondentum issued by any justice of the peace in the counties of Marion, Boone, Putnam, Carroll, Warren, Shelby, Montgomery, Clinton, Monroe, Tippecanoe, Owen, Hendricks, Greene, Parke, Vermillion, Madison, Orange, Washington, Morgan and Johnson in any civil suit in any township other than the one in which such defendant actually resides, except as follows, to wit: 1st, where there shall be no justice in such township who can legally issue such summons. 2d. Where two or more persons shall be jointly, or jointly and severally, bound in any contract, or liable for any injury and shall reside in different townships of the same county, it shall be lawful for the plaintiff to commence his or her action before a

justice of the peace of that township in which any one of the debtors or other person liable, may reside, and the justice before whom such action may be brought shall issue process against such debtors, directed to any constable of his township, which process such constable shall be authorised to serve and return, and the defendants shall be compelled to answer thereto; and all such other proceedings shall be had thereon as if all the defendants resided in the township where such action was commenced. 3d. In cases of trespass on personal property, it shall be lawful to bring the action in the township where the trespass was committed. 4th. It shall be lawful for any justice in any of the aforesaid counties to receive as bail recognizance, or as security in stay of execution, any person or persons who shall be citizens of the county where such obligation may be required under the same rules and regulations heretofore and now in force in such cases, and such bail, recognizance or security shall be made to answer and shall be proceeded against in the same manner as if they resided in the township where such obligation or obligations was or were contracted. 5th. Where the defendant has not resided in the county three months and is a transient person, he, she, or they shall be proceeded against, as directed and required by the several laws to which this is an amendment. 6th. And if any plaintiff, his, her or their agent or attorney shall make affidavit that he, she or they are in danger of losing his, her or their debt or demand unless such defendant is arrested, in which case also, the jurisdiction of justices shall be coextensive with the county.

SEC. 2. All acts and parts of acts contravailing the Repeal provisions of this act be and the same are hereby repealed so far as regards the counties mentioned in the first section of this act.

SEC. 3. If the person or persons charged or to be charged in or by any note, bond, account, or other contract shall stipulate in writing that the same shall be suable or collectable in any particular township in either of the before mentioned counties except the counties of Marion, Tippecanoe, Carroll, Boon, Hendricks, Park, Orange, Morgan, Owen, Washington and Madison, suit may be brought thereon before, and process issued by any justice of such township against such person or persons, which shall be executed on him, her, or them if found in the county in which such justice resides, and said justice shall in every other respect be governed in the same manner, and have the same power and juris-

Contracting writing that suit may be brought in any particular township binding, except in certain counties.

diction in the cause, as if the defendant or defendants resided and were found in said township.

Prior contracts
not affected by
this act.

Exception.

SEC. 4. Any note, bond, or other contract made prior to the taking effect of this act shall not be affected by its provisions, but on suit being brought thereon in any of the aforesaid counties before a justice he shall issue the proper process, exercise jurisdiction, try the cause and render judgment in the manner authorised by the law in force on the first day of January in the year 1834, except that the contracts exempted from the operation of this act shall in the counties of Tippecanoe, Monroe, Marion, Warren, Shelby, Montgomery, Clinton, Owen, Hendricks and Greene shall be limited to those only which were made before the first day of May in the year 1834.

In certain coun-
ties defendant
shall answer in
the township
where found.

SEC. 5. Provided however that in the counties of Monroe, Greene and Vermillion any person shall be bound to answer any summons or other process issued by any justice of the peace in any civil suit in any township where such person may be found on service of such summons or process, any thing in this act contained to the contrary notwithstanding.

CHAPTER XXXII.

AN ACT to amend the several acts regulating the jurisdiction and duties of Justices of the Peace in the county of Perry.

(APPROVED FEBRUARY 7, 1835.)

Suit to be bro't
in the township
where defend-
ant resides.

Exceptions.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That no householder shall be bound to answer any summons or other process issued by any justice of the peace in the county of Perry, in any civil suit in any other township than the one in which the defendant or defendants reside, except as follows, to wit: Ist. When there shall be no justice in such township who can legally issue all necessary process in such suit.

SEC. 2. Where two or more persons shall be jointly or jointly and severally in any demand or contract, bound in such contract, or indebted or liable for any injury, and shall reside in different townships in the same county, it shall be lawful for the plaintiff to commence his, her, or their action before a justice of the peace of that township, in which any one of the debtors or other person liable may reside, and the justice before whom such action

may [be] brought, shall issue process against such defendants, directed to any constable of his township, which process such constable shall be authorised to serve and return the same; and the defendant shall be compelled to answer thereto; and all such other proceedings shall be had thereon, as if all the defendants resided in the township where such action was commenced.

SEC. 3. In cases of trespass and actions arising on tort ^{In trespass.} on personal property, it shall be lawful to bring the action in the township where such trespass was committed, or in which the trespasser resides.

SEC. 4. It shall be lawful for any justice in the aforesaid county of Perry, to receive as bail, or as security in stay of execution, any person or persons whom he may deem sufficient, and who are citizens of the county, when such suit may be brought, under the same rules and regulations as heretofore and now are in force in such cases, and such bail, recognizances or security shall be made to answer, and shall be proceeded against in the same manner as if they resided in the township where such obligation, debt, or demand was contracted.

SEC. 5. When the defendant or defendants have not resided in the county three months, or is a transient person, he or they may be proceeded against in any township of the county.

SEC. 6. And if any plaintiff, his, her, or their agent or attorney, shall make affidavit, that he, she, or they verily believe that the demand is just, and in danger of being lost, unless such defendant is arrested, in which cases also, the jurisdiction of the justices shall be co-extensive with the county.

SEC. 7. If any written demand expresses payment to be made at any certain place, then suit may be brought in the township where such obligation was to be discharged; or when the parties agree in writing that the demand is to be discharged in any certain township, then suit may be brought therein, or in the township where the defendant or defendants or either of them may reside, at the discretion of the plaintiff or plaintiffs.

SEC. 8. This act is not to affect or change the right of action of any contract or demand, or impair the obligation thereof, made or due prior to the publication of this act, but suits thereon may be brought by virtue of the law in force on the first day of January, 1831.

SEC. 9. This act to take effect and be in force from and after its publication.

Where defend-
ant has not re-
sided in the
county three
months.

Affidavit that
there is danger
of debt being
lost.

Agreements in
writing.

Prior contracts.

CHAPTER XXXIII.

AN ACT relative to the jurisdiction of Justice of the Peace in Clay county.

(APPROVED JANUARY 26, 1835.)

Repeal.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That so much of the act entitled "an act to amend an act entitled an act regulating the jurisdiction and duties of justices of the peace; approved February 1, 1834, as relates to the county of Clay, be and the same is hereby repealed.

Act revived.

Sec. 2. That the provisions of the act to which said recited act is amendatory, so far as relates to the said county of Clay, be and the same is hereby revived.

This act to take effect and be in force from and after its publication.

CHAPTER XXXIV.

AN ACT to change the times of holding the Circuit Courts in the several counties in the sixth Judicial Circuit.

(APPROVED JANUARY 30, 1835.)

Times of holding courts.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the Circuit Courts in the several counties composing the sixth judicial circuit shall be holden annually on the days and times following, viz: in the county of Wayne on the first Mondays of March and September; in the county of Union on the third Mondays of March and September; in the county of Fayette on the fourth Mondays of March and September; in the county of Rush on the second Mondays succeeding the commencement of the courts in the county of Fayette; in the county of Henry on the second Mondays succeeding the commencement of the courts in the county of Rush; in the county of Delaware on the Mondays succeeding the courts in the county of Henry; in the county of Grant on the Mondays succeeding the courts in the county of Delaware; in the county of Randolph, on the Mondays succeeding the courts in the county of Grant; and the several Circuit Courts in the sixth judicial circuit to be holden as above shall each sit six days if the business require it, except in the counties of Wayne, Fayette and Rush, which shall each sit twelve days if the business

shall require it: *Provided*, That the first term of the Circuit Court in the county of Fayette in the year 1835 shall commence on the second Thursday succeeding the commencement of the Courts in the county of Union, and shall sit nine days if the business require it, and the first court to be held in the county of Union under the provisions of this act, shall sit nine days if business require it.

Proviso.

Sec. 2. All writs, subpoenas, venires or other process which may have issued from any Circuit Court in said sixth judicial circuit since the last sitting thereof, or which may hereafter issue, previous to the taking effect of this act in the several counties in said circuit, shall be deemed and taken, and are hereby made returnable to the first day of the first term of the several circuit courts to be holden by virtue of this act; and all suits pleas,

Process hereto foreissued when returnable.

plaints, prosecutions, recognizances, actions, motions or other proceedings, either civil or criminal, which are now pending or which may hereafter be pending prior to the taking effect of this act, shall be taken up and acted upon at the first term of such court to be holden under this act and be disposed of according to law, in the same manner as if no alteration had been made in the times of holding such court.

Suits acted on.

Sec. 3. All acts and parts of acts coming within the purview of this act be, and the same are hereby repealed.

Repeal.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER XXXV.

AN ACT providing for the holding of the terms of the Circuit Courts in the eighth judicial Circuit.

(APPROVED JANUARY 30th, 1835.)

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the Circuit Courts in the eighth judicial circuit shall be held on the days and times following to wit: in the county of Cass on the second Mondays of February and August; in the county of Miami on the third Mondays of February and August; in the county of Wabash on the Mondays succeeding the courts in the county of Miami; in the county of Huntington on the Mondays succeeding the courts in the county of Wabash;

Times of holding courts.

in the county of Allen on the Mondays succeeding the courts in the county of Huntington; in the county of Lagrange on the Mondays succeeding the courts in the county of Allen; in the county of Elkhart on the Mondays succeeding the courts in the county of Lagrange; in the county of St. Joseph on the Mondays succeeding the courts in Elkhart county; in the county of Laporte on the Mondays succeeding the courts in the county of St. Joseph; and the several courts to be holden as provided in this section, shall each sit six days if the business require it, except the courts in the county of Allen, which may sit twelve days if the business require it: *Provided however,* That the Circuit Courts in said circuit for the spring term in the year one thousand eight hundred and thirty five thereof, shall be holden on the days and times following to wit: in the county of Cass on the third Monday of February in the year eighteen hundred and thirty five; in the county of Miami on the Monday succeeding the court in Cass county; in the county of Huntington on the Monday succeeding the court in Miami; in the county of Allen on the Monday succeeding the court in Huntington; in the county of Lagrange on the Monday succeeding the court in Allen; in the county of Elkhart on the Monday succeeding the court in Lagrange; in the county of St. Joseph on the Monday succeeding the court in Elkhart; in the county of Laporte on the Monday succeeding the court in St. Joseph; and the said several courts to be holden as provided by the foregoing provisions, shall each sit six days if the business shall require it; except the county of Allen which may sit twelve days if the business shall require it; and provided further that the preceding proviso shall apply only to the said spring term of said circuit.

Return of process.

SEC. 2. That all writs, subpoenas, rules, orders of court recognizances, and all process whatever which may have heretofore issued out of any of said Circuit Courts, or which shall issue before this act shall become in force in the several counties in said circuit, shall be and the same are hereby made returnable in the said several courts on the days provided by this act for the commencement of their courts, in the same manner as if no alteration had been made in the time of holding said courts.

SEC. 3. This act shall be in force from and after its publication in the Indiana Journal and Democrat.

Proviso.

CHAPTER XXXVI.

AN ACT to change the time of holding the Circuit Court in the counties of Vermillion and Parke.

(APPROVED JANUARY 22, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Circuit Courts, for the counties of Parke and Vermillion, in the first judicial circuit, shall be held at their next terms, at the following times, to wit: to commence in the county of Parke, in said circuit, on the fourth Monday of February, and shall sit nine days, ending on Wednesday of the second week of said session, inclusive, if the business thereof require it; and in the county of Vermillion, on Thursday next after the sitting of the Circuit Court in the county of Parke, and shall sit nine days, ending on Saturday of the second week of said term, inclusive, if the business thereof require it.

SEC. 2. *And be it further enacted,* That all writs, subpoenas, or other process, which have heretofore issued, or may hereafter issue from the Circuit Court of the county of Vermillion, previous to this act being received in said county, shall be deemed and taken as returnable, on the first day of the first term of said court as fixed in the first section of this act; and all suits, pleas, plaintiffs, prosecutions, recognizances, actions, motions, and all other proceedings, civil or criminal, which now are, or may hereafter be pending in said court, previous to the reception of this act in said county, shall be taken up and acted on, at the first term of the court, to be held under this act, and be disposed of in the same manner, and subject to the same restrictions, rights, liabilities, duties, and consequences, as would obtain in each matter, if this act had not passed.

SEC. 3. *And be it further enacted,* That the Circuit Courts for the counties of Parke and Vermillion, shall be held next succeeding the terms contemplated in the first section of this act, at the following times, to wit: in the county of Parke on the fourth Monday of August, and in the county of Vermillion on the first Monday of September, and shall sit twelve days in each county, if the business thereof require it.

This act to be in force from and after its publication in the Indiana Democrat.

Times of holding courts at first term.

Writs, &c. returnable.

Suits.

Times of holding after first term.

CHAPTER XXXVII.

AN ACT to change the time of holding the Probate Court of Perry county.

(APPROVED JANUARY 23, 1835.)

Time.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the Probate court of the county of Perry shall hereafter be held the fourth Monday of February.

Process.

SEC. 2. All writs, subpoenas, or other process, issued from the Probate court of the county of Perry, since the last sitting of the Perry Probate court, or which may hereafter issue previous to this act being received in said county, shall be deemed and taken, and are hereby made returnable to the first day of the first term of said Perry Probate court, to be holden by virtue of this act; and all suits, pleas, plaints, prosecutions, actions, motions, or other proceedings which are now pending, or which shall be pending, previous to this act being received in said county of Perry, shall be taken up and acted upon at the first day of the first term of said court, to be holden under this act and be disposed of according to law, in the same manner as if no alteration had been made in the time of holding such court.

This act to be in force from and after its publication in the Indiana Democrat.

Suits.

CHAPTER XXXVIII.

AN ACT changing the times of holding the Probate Court in Pike county.

(APPROVED JANUARY 17, 1835.)

Time.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the Probate court of the county of Pike, shall hereafter hold its terms on the third Mondays of February, May, August, and November, and shall at each term sit six days, if the business thereof require it.

Repeal.

SEC. 2. That all laws and parts of laws coming within the purview of this act, be and the same are hereby repealed.

That this act shall take effect and be in force from and after its publication in the Indiana Journal.

CHAPTER XXXIX.

AN ACT to abolish imprisonment for debt in case of females.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That hereafter no *capias* in any civil cause against any female, shall be issued by a justice of the peace, nor shall any *capias ad satisfaciendum* be issued from any court or by any person against a female, in any civil cause, nor shall any female be arrested or held to bail in any civil cause: *Provided*, however, That this act shall not be construed to exempt any female from being arrested or held to bail on any attachment issued in any suit in equity, or for contempt of court.

CHAPTER XL.

AN ACT to amend "an act to organise Probate Courts, and defining the powers and duties of Executors, Administrators, and Guardians," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That whenever it may become necessary or expedient for an executor, administrator, or guardian to sell real estate belonging to the decedent, or to apply to a court for such sale under the provisions of the act to which this is an amendment, any certificate for school lands executed by a school commissioner, and belonging to the estate of such decedent, may be sold (as aforesaid) as other real property belonging to such estate may be sold, and such certificate may thereupon be assigned and transferred by the executor, administrator or guardian (as the case may be) to the purchaser, his heirs or assigns, whether the purchase money of such certificate be paid in whole or in part only.

SEC. 2. Whenever hereafter any executor or administrator shall be of opinion, that the interest of the estate of his intestate would be promoted by selling any portion of the personal or real property belonging to such estate at private sale, it shall be lawful for such executor or administrator, thereupon to make application to the Probate court by written petition for permission to sell such property at

Court may authorise property to be sold at private sale.

Proviso. private sale, setting out in his said petition the advantages which will accrue to such estate from such sale. Upon such petition being filed in the Probate court, such court shall, in its discretion, authorise a sale of such property at private sale, if in the opinion of such court, the interest of such estate would be thereby promoted: *Provided*, That such sale shall not be made at less than the appraised value.

Notices, how published.

SEC. 3. In all cases where, by the provisions of the act to which this is an amendment, it shall be necessary for any administrator or executor to give any notice, by publication in a newspaper, and there shall not be any newspaper published in the county in which such letters of administration were issued, it shall not be deemed necessary for such administrator or executor to make publication of any such notice, in any newspaper published in any other county, unless specially ordered so to do, by the Probate court; and the Probate court shall, in such cases, order as many written notices to be posted in such county, as they may deem necessary.

Court shall examine bonds of guardians every two years.

SEC. 4. It shall hereafter be the duty of the several Probate courts in this state, to examine the bonds of all guardians who may have obtained letters of guardianship from such court, at least once in every two years; and if, upon such examination, such court shall be of opinion, that there [are] any doubts of the solvency or sufficiency of the security in such bonds, they shall thereupon require such guardian to execute a new bond with security to the satisfaction of such court, and upon the failure of such guardian so to do, such court shall rescind and revoke his or her letters of guardianship.

C't shall cause guardian to account on the application of the minor.

SEC. 5. Whenever hereafter any minor or minors under the age of twenty-one years, whose estate may be in the custody of a guardian or guardians, shall, by a next friend, file in the Probate court of the county from which such letters of guardianship issued, a petition setting forth that such guardian or guardians have not disposed of the property or estate of such minor or minors, in such manner as will conduce to their interest, or that such guardians have made use of the property or estate of such minors for their own benefit, or that it would be to the interest of the said heirs to have the money, in the hands of the said guardian or guardians, vested in lands for the benefit of such minors, it shall be the duty of such Probate court to cause such guardian or guardians, at the next term of such court, to come before them and account for the property or estate of such minor in his or their hands; and such court shall upon such accounting, order the

said guardian or guardians to vest the same in land for the benefit of such minors, or make such other order concerning it as shall conduce to the benefit of such minors. And said court may, on such investigation, vacate the office or trust of such guardian, and appoint another guardian in his or her room, as right and justice may require.

This act to be in force from and after its publication.

CHAPTER XLI.

AN ACT to change the time of holding the Probate court in the county of Delaware.

(APPROVED DECEMBER 20, 1834.)

SEC. 1. Be it enacted by the General Assembly of the State Time. of Indiana, That the Probate court of the county of Delaware shall hereafter hold its February and August terms on the last Mondays of February and August, instead of the second Mondays.

SEC. 2. All process shall be made returnable on the last Monday in February, and all suits, plaints, and settlements shall be carried on and prosecuted to an end, in the same manner as if no change whatever had been made in the time of holding said court.

SEC. 3. This act to be in force from and after its publication in the Indiana Journal.

CHAPTER XLII.

AN ACT to amend an act entitled "an act regulating grist mills and millers," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That in the counties of Fountain and Gibson, the owner or owners of any grist mill propelled by water power, or the occupier thereof shall be entitled to receive not exceeding fifty cents per barrel for grinding and packing flour; that no person owning or occupying such grist mill, shall compel any person or persons to pay money for grinding their grain, but shall be entitled to receive the proportion of grain named in the

act to which this an amendment, and no more unless by agreement.

This act to be in force from and after the passage.

CHAPTER XLIII.

AN ACT to amend an act entitled "an act to provide for the election of county and township officers," approved January 30th, 1831.

(APPROVED FEBRUARY 7, 1835.)

Clerk shall order election to fill vacancies in the office of j. p. **SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That hereafter when the office of a justice of the peace is vacated by death, resignation, removal or otherwise, it shall be the duty of the clerk of the Circuit courts in their respective counties, on being informed thereof, to order an election to be held in the town or township in which such vacancy happened, at the usual places of holding elections, by a notice in writing to the person in the proper county acting as sheriff, setting forth the vacancy to be filled, and appointing a day therein for conducting the same.

Duty of sheriff. **SEC. 2.** The person so acting as sheriff after receiving said notice shall forthwith proceed to advertise the election by written advertisement posted up in three of the most public places in the town or township in which such election is to be held, twenty days prior to the time of holding the same; and the election shall be governed in all other respects by the act to which this is an amendment.

Repeal. **SEC. 3.** All laws coming within the purview of this act be and the same are hereby repealed.

This act to take effect and be in force from and after its publication.

CHAPTER XLIV.

AN ACT to amend the act entitled "an act to amend an act entitled an act to establish a College in the State of Indiana."

(APPROVED JANUARY 26, 1835.)

County board to select a student of Indiana. **SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in

each county in this state, shall at any session thereof at which application is made, select a student to the Indiana College, agreeably to the provisions of the act to which this is an amendment, if no such selection shall have been made at the time prescribed by the second section of said act, or if any one so selected shall not avail himself of the advantages of the act.

SEC. 2. It shall be the duty of said board, upon application being made for that purpose, to supply any vacancy which may occur of a student in said college, from said county, from time to time, so that there shall always be one student, and no more, under the provisions of this act, and the act to which this an amendment from each county, in said college.

Vacancy of a student supplied.

CHAPTER XLV.

AN ACT concerning the Wabash and Erie Canal Lands.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. [Be it enacted by the General Assembly of the State of Indiana,] That no forfeiture shall take place or be entered against any owner of canal land for failure to pay the interest due on any tract of canal land, provided the said annual interest in advance which may fall due at any period of the year shall be paid to the canal commissioners at their office on or before the first day of October in each such year.

Interest on land before the first Oct. annually.
This act to take affect and be in force from and after its passage.

CHAPTER XLVI.

AN ACT to amend "an act for the relief of the poor." Approved February 10th 1831.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in the county of Daviess be and they are hereby authorised, if they deem it expedient, to appoint some person who shall have power to farm out all the paupers in said Daviess c'ty.

county to one person as the interest of the county may require, and the said board may, if they deem it expedient, receive proposals to keep said paupers taking the lowest responsible bidder: *Provided however,* That said paupers shall be farmed out under the same rules and regulations as are required by the act to which this is an amendment. All acts and parts of acts comming within the purview of this act, so far as the same relates to the county of Davies, be and the same are hereby repealed.

This act to be in force from and after its passage.

CHAPTER XLVII.

AN ACT to amend "an act relative to crime and punishment," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

Administering poison.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That every person who shall administer or cause and procure to be administered any poison to any other human being with the intent to kill the person or persons to whom the same shall be administered whereby death shall not ensue, upon conviction thereof shall be punished by imprisonment at hard labor in the state prison any term of time not less than three years.

Mingling poison with food, &c.

SEC. 2. That every person who shall mingle poison with any food, drink, or medicine with intent to kill or injure any human being, or who shall poison any spring well, or reservoir of water with the intent aforesaid shall upon conviction be punished by imprisonment at hard labor in the state prison, any term of time not less than two nor more than fourteen years.

Medicine administered to a pregnant woman to produce miscarriage.

SEC. 3. That every person who shall wilfully administer to any pregnant woman, any medicine, drug, substance or thing whatever, or shall use or employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, shall upon conviction be punished by imprisonment in the county jail any term of [time] not exceeding twelve months and be fined any sum not exceeding five hundred dollars.

Escape from **SEC. 4.** That every convict confined in the state pri-

son who shall escape therefrom shall upon conviction be ~~state prison.~~ punished by imprisonment at hard labor in the state prison for any term of time not exceeding double the length of time for which such escaping convict was originally sentenced, to commence from and after the expiration of the original term of his imprisonment.

SEC. 5. If any prisoner confined in the state prison shall escape therefrom he may be pursued, retaken, and imprisoned again notwithstanding the term for which he was sentenced to be imprisoned may have expired at the time when he shall be retaken, and shall remain so imprisoned until tried for such escape or until he be discharged on a failure to prosecute therefor.

SEC. 6. The eighty-ninth section of the act to which ~~Repeal.~~ this is an amendment be and the same is hereby repealed.

SEC. 7. That every person who by any means whatever shall aid or assist any prisoner lawfully committed to, or detained in any jail or other place of confinement for any criminal offence in an attempt to escape therefrom or who shall convey into such jail or place of confinement any disguise, instrument, arms or other thing proper or useful to facilitate the escape of any prisoner with intent to facilitate the escape of any prisoner so committed, whether such escape be attempted or not, shall upon conviction be punished by imprisonment in the county jail any term of time not exceeding twelve months or be fined any sum not exceeding five hundred dollars, or by both such fine and imprisonment.

Aiding a prisoner to escape from jail &c.

SEC. 8. That if any person shall wilfully and maliciously remove any monument of stone, wood, or other durable materials erected for the purpose of designating the corner or any other point in the boundary of any lot or tract of land, or shall wilfully and maliciously deface or alter the marks upon any tree, post or other monument made for the purpose of designating any point, course or line in the boundary of any lot or tract of land, or shall wilfully cut down or remove any tree upon which any such marks shall be made for such purpose, with the intent to destroy such marks, he, she, or they so offending upon conviction shall be punished by imprisonment in the county jail any time not exceeding six months or by fine not exceeding two hundred dollars.

Removing, defacing or altering land marks.

SEC. 9. That every person who shall be a party to ~~Fraudulent sales &c.~~ the sale and delivery of any goods or chattels or to any bond, bill of sale, assignment, grant, gift, deed, or other conveyance of any estate or interest in land, or of any rents or profits issuing therefrom, or of any goods, chat-

tels, choses, or things in action made or executed with a view to defraud prior or subsequent purchase [purchasers], or to hinder, delay, or defraud creditors and every person being privy to or knowing of such sale, conveyance, or assignment who shall willingly put the same in use having been made in good faith, shall upon conviction be imprisoned in the county jail any term of time not exceeding twelve months, and be fined any sum not exceeding two hundred dollars, and all such sales, deeds, conveyances, and assignments shall be absolutely null and void: *Provided*, That the admission or discovery of such fraud under oath in a civil suit shall in no case be admitted as evidence in any prosecution under this act.

Repeal.

SEC. 10. The fortieth section of the act to which this is an amendment is hereby repealed, provided that such repeal shall in no wise effect, impair or invalidate any right accrued, prosecution commenced, or crime committed under or by virtue of said section, but that such right or interest shall remain as valid, such prosecution shall lawfully proceed, and every crime shall be prosecuted and punished as if such section had remained in full force.

Former act governs prosecutions &c. under this act.

SEC. 11. That so much of the act to which this is an amendment as relates to, and regulates the proceedings in prosecutions for offences and crimes therein defined shall extend to, and govern prosecutions under this act.

CHAPTER LXVIII.

AN ACT to extend the provisions of an act therein named to Gibson and Decatur counties.

(APPROVED JANUARY 10, 1835.)

Justices of the peace to constitute c'ty board.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That in each of the counties of Gibson, Decatur, Posey, Boone and Washington, the qualified justices of the Peace for the said counties shall constitute a board of commissioners in their respective counties, and shall be known by the name and style of the "board of commissioners of _____ county," and as such shall be entitled to all the rights, incidents, powers and privileges, and subject to all and singular the duties, incidents and requirements to which, by the act to which this is amendatory, the existing board of commissioners in the

aforesaid counties is entitled and subject to, except as hereinafter provided.

SEC. 2. The justices of the peace aforesaid shall, at their first meeting, and annually thereafter, elect one of their number President of said board, whose duty it shall be to propound questions for their action, preside over their deliberations, keep order pronounce their decisions and sign their proceedings: *Provided*, that in the absence of the President so elected, the board shall elect a President *pro tempore*, who shall exercise all the powers and perform all the duties herein required of the President.

SEC. 3. All suits, pleas, plaints, prosecutions and proceedings, which may be pending in any court to be tried, in which the present board of commissioners of either of the counties named in the first section of this act, is a party, previous to the taking effect of this act, shall be prosecuted to final judgment and execution in the same manner as though this act had not passed, and all contracts or liabilities in favor of or against the existing board of commissioners, shall remain valid in law and equity.

SEC. 4. It shall require seven members of said board, at their May and November sessions and five members at other sessions, to form a quorum to do business; and such members as do attend shall have power by this act to issue writs of attachment, and compel the attendance of absent members, and adjourn from day to day for that purpose.

SEC. 5. It shall be the duty of all the justices of the peace in each and every county in this act named, to be punctual in their attendance at each and every session of said board, and for every failure thereof, without a reasonable excuse, such justice shall be fined, upon presentment or indictment, in any sum not exceeding ten dollars, for the use of the county seminary in their respective counties.

SEC. 6. That the said justices of the peace, in the counties aforesaid, shall, after the taking effect of this act, be exempt from militia duty, serving on juries, working on public roads and highways, and shall receive no other compensation for any of the duties enjoined on them by this act.

SEC. 7. The first, second, third, eighth, eleventh, and thirteenth sections of the act to which this is an amendment, are, as to the counties named in the first section of this act, repealed.

SEC. 8. Each of said boards of commissioners in the common seal, counties named in the first section of this act, shall have

President.

Proviso.

Suits &c. pend-ing.

Quorem.

Penalty for non attendance at the meetings of the board.

Justices to be exempt from certain duties in lieu of compensation.

Repeal.

Common seal.

and use a common seal for the purpose of sealing their proceedings: and copies of the same when signed by the president of said boards respectively, and sealed and attested by their clerk, shall be good evidence of such proceedings on the trial of any cause in any of the courts of this state.

When to organize.

SEC. 9. It shall be duty of the said justices of the place in said counties, to meet and organize, at the next March session of said board: *Provided*, however, that if any thing should prevent them from organizing at that term, it shall not operate to prevent them from organizing at any subsequent session.

Clerks and sheriffs.

SEC. 10. That it shall be the duty of the clerks of the boards doing county business of the counties named in the first section of this act, as soon as they shall receive notice of the taking effect of this act, to issue a summons directed to the sheriff of the county, requiring him to summon the justices of the peace of the county, to attend at the first meeting of the boards in said counties, and the sheriffs of the respective counties aforesaid shall serve said summons according to law.

This act to be in force take effect and from and after its publication in the Indiana Democrat.

CHAPTER XLIX.

AN ACT supplemental to an act to extend the provisions of an act therein named to Marion county.

(APPROVED FEBRUARY 7, 1835.)

Justices to constitute county board.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That in the county of Marion the qualified justices of the peace for the county aforesaid, shall constitute a board of commissioners in said county, and shall be known by the name and style of the board of commissioners of Marion county; and as such shall be entitled to all the rights, incidents, powers, and privileges, and subject to all and singular the duties, incidents, and requirements to which, by the act to which this act is amendatory, the existing board of commissioners, in the aforesaid county of Marion, are entitled to, except as hereinafter provided.

President.

SEC. 2. The justices of the peace aforesaid shall, at their first meeting, and annually thereafter, elect one of their number president of said board; whose duty it shall

be to propound questions for their action, preside over their deliberations, keep order, pronounce their decisions, and sign proceedings: *Provided*, That in the absence of the president so elected, the board shall elect a president *pro tempore*, who shall exercise all the powers and perform all the duties required of the president.

SEC. 3. All suits, pleas, plaints, proceedings and prosecutions which may be pending in any court to be tried in which the present board of commissioners in the county above named in the first section of this act is a party, previous to the taking effect of this act, shall be prosecuted to final judgment and execution in the same manner as though this act had not passed; and all contracts and liabilities in favor of, or against the existing board of commissioners, shall remain valid in law and equity.

SEC. 4. It shall require seven members of the said board at their May and November sessions, and five members at all other sessions, to form a quorum to do business; and such members as do attend shall have power by this act to issue writs of attachment and compel the attendance of absent members and adjourn from day to day for that purpose.

SEC. 5. It shall be the duty of all the justices of the peace in the county in this act named to be punctual in their attendance at each and every session of said board, and for every failure thereof, without a reasonable excuse, such justice shall be fined upon prosecution or indictment in any sum not exceeding ten dollars for the use of the county seminary in said county of Marion.

SEC. 6. That the said justices of the peace in the county aforesaid shall, after the taking effect of this act be exempt from militia duty, serving on juries, working on public roads and highways, and shall receive no other compensation for any of the duties enjoined on them by this act.

SEC. 7. The first, second, third, eighth, eleventh and thirteenth sections of the act to which this is an amendment are, as to the county named in the first section of this act, repealed.

SEC. 8. The said board of commissioners in the county named in the first section of this act shall have and use a common seal for the purpose of sealing their proceedings; and copies of the same when signed by the president of said board respectively, and sealed and attested by their clerk, shall be good evidence of such proceedings on the trial of any cause in any of the courts of this state.

Suits &c. pending.

Penalty for non attendance at the meetings of the board.

Justices to be exempt from certain duties in lieu of compensation.

Repeal.

Common seal.

When to organize.

SEC. 9. It shall be the duty of the said justices of the peace in said county to meet and organize at the next March session of said board: *Provided however,* that if any thing should prevent them from organizing at that time, it shall not operate to prevent them from organizing at any subsequent session.

Clerk & sheriff.

Sec. 10. That it shall be the duty of the clerk of the board doing county business of the county named in the first section of this act as [soon as] he shall receive notice of the taking effect of this act to issue a summons directed to the sheriff of the county of Marion requiring him to summon the justices of the peace of said county to attend at the first meeting of the board in said county; and the sheriff of said county aforesaid shall serve said summons according to law.

Sec. 11. This act to be in force and take effect from and after its publication in the Indiana Journal.

CHAPTER L.

AN ACT to amend "an act to regulate the mode of doing county business in the several counties of this state," approved January 19th, 1831.

(APPROVED FEBRUARY 7, 1835.)

Certificate of election of certain officers.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That whenever any fence viewer, overseer of the poor, or supervisor of the highway is elected at an election held by the qualified voters of any township, the certificate of the election of such officer, by the judges of such election, shall be given by them to the officer elected, which shall be sufficient evidence of such election.

Sec. 2. The twenty-third section of the act to which this is an amendment is hereby repealed.

CHAPTER LI.

AN ACT to amend an act entitled "an act to regulate the mode of doing county business in this state," approved January 19, 1831.

(APPROVED FEBRUARY 7, 1835.)

Certificate of election.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That hereafter it shall be the duty of the board of commissioners, or the boards doing coun-

ties to appoint in certain coun-

ty business in the several counties of Jefferson, Jennings, ~~certain~~ Washington, Harrison, Parke, Owen, Posey, Orange, ~~officers.~~ Putnam, Spencer, Allen, Bartholomew, Scott, Clark, Vigo and Gibson, at the next May session thereof in each of said counties and thereafter at the March term and annually thereafter appoint all the township officers named in the 20th section of the act to which this is an amendment (except constables) and that the said 20th section of said act, as to the aforesaid counties so far as it relates to an election of township officers except constables be and the same is hereby repealed: *Provided* that all such township officers as are now elected, shall serve as such until their successors be appointed as aforesaid and be qualified into office, and provided also, that all constables shall be annually elected as provided for by the said 20th section of the act to which this is an amendment.

Repeal.

Proviso.

Sec. 2. This act to take effect and be in force from and after its passage, and publication in the Indiana Journal.

CHAPTER LII.

AN ACT to change the mode of electing the commissioners in the county of Fountain.

(APPROVED DECEMBER 24, 1834.)

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the county commissioners in the county of Fountain, shall hereafter be elected by the qualified voters in the commissioners district, in which they reside, on the first Monday in April of the year in which any vacancy may occur but shall not be qualified into office, until the full end of the term for which their predecessor was elected and qualified.

Comm'r's to be elected in April

Sec. 2. That the inspectors of elections in each township, composing said commissioners district, shall within twenty days after such election, certify to the clerk of the Circuit Court, the number of votes each candidate received in their respective townships, from which certificates the said clerk shall make out the certificate of election, as now required by law.

Certificate of election.

This act to take effect, and be in force from and after its passage.

CHAPTER LIII.

AN ACT to authorise the purchase of lands at sites for dams at the falls or rapids of the Wabash river and for other purposes.

(APPROVED FEBRUARY 7, 1835.)

**Can't to pro
cure sites.**
SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the commissioner appointed under the authority of the "act to provide for the improvement of the navigation of the Wabash river" approved February 1st, 1834, be and he is hereby authorised and directed to procure by purchase, or donation such parcels of land at such points, as he shall select as suitable and necessary for sites of dams and side cuts for canals and locks around the same, sufficient to overcome the descent of the Wabash river or falls, in that part over which the States of Illinois and Indiana have concurrent jurisdiction, to be conveyed to and in the name of the State of Indiana, to pay for the same out of any moneys at his disposal under the authority of the act above referred to, and to report his proceedings in relation to this subject to the General Assembly during the first week of their next session.

**Penalty for di-
verting water,
&c.**
SEC. 2. Should any person divert the water from the channel of the river around any of the dams so as to injure the navigation or to render the water power less profitable or valuable to the State, or injure or destroy any of the works contemplated by this act or the act approved 1st February 1834, providing for the improvement of the Wabash river, such person shall, upon conviction by presentment or indictment, be fined in any sum not less than fifty dollars nor more than one thousand dollars, and be imprisoned in the Penitentiary not less than one year, nor more than five years.

This act to take effect from and after its passage.

CHAPTER LIV.

AN ACT to amend an act entitled "an act for the inspection of flour, beef and salt," approved January 24, 1829.

(APPROVED JANUARY 31, 1835.)

Repeal.
SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That so much of the act to which this

is an amendment, as provides for the appointment of an inspector of salt, in the county of Parke, be, and the same is hereby repealed.

SEC. 2. This act to be in force from and after its publication in the Wabash Herald.

CHAPTER LV.

AN ACT to abolish the office of Agent of the three per cent. fund.

(APPROVED JANUARY 26, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That from and after the sixth day of February eighteen hundred and thirty five the office of agent of the three per cent. fund shall be, and the same is hereby declared to be abolished, and the duties now appertaining to the same, shall from thenceforth be discharged by the treasurer of state for the time being, who shall for that purpose be vested with all the authority, and subject to all the liabilities incident to the said office of agent.

SEC. 2. It is hereby made the duty of the agent of the three per cent fund, upon the expiration of his office as aforesaid, to deliver over to the treasurer of state all books, papers, vouchers, and money in his hands or subject to his control as such agent and appertaining to, or in any manner connected with the affairs of the said agency; and the receipt of the said treasurer for the same shall be a sufficient acquaintance to said agent for the things therein specified.

SEC. 3. The said treasurer shall, before he enters upon the performance of the duties herein enjoined upon him, file in the office of the secretary of state, a bond payable to the state of Indiana, to be approved by said secretary, in the penalty of twenty thousand dollars, conditioned for the faithful performance of the duties appertaining to the management of the said three per cent. fund, and for the delivery over to his successor in office, all books, papers, vouchers, money and other matters appertaining to said fund.

SEC. 4. The treasurer shall receive in addition to his present salary, for the services hereby enjoined upon him, the sum of one hundred dollars per annum, payable out of the said three per cent fund.

*Agency abolis-
hed and duties
transferred to
treas. of state.*

*Books &c. to be
delivered to the
treasurer.*

*Bond of trea-
surer.*

Compensation.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER LVI.

AN ACT to amend the act entitled "an act to provide for the distribution of the laws and journals, and for other purposes," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

Gen'l and spec'l acts printed separately. SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the general and special acts of the present and each subsequent session of the General Assembly, shall be printed in separate volumes.

No. copies. SEC. 2. Of the general acts, there shall be printed annually four thousand copies, and of the local acts seven hundred and fifty copies.

Manner of binding. SEC. 3. The secretary of state shall cause said acts to be stitched and bound in strong paper covers, in the same manner that the acts of congress are usually put up.

No. Journals. SEC. 4. There shall be hereafter printed annually three hundred copies of the journal of the senate and three hundred copies of the journal of the house of representatives to be covered in the same manner that the acts are directed to be covered.

Marg'l notes to special acts dispensed with. SEC. 5. The secretary of state is hereby directed to cause the volume of special acts to be printed without marginal notes.

How distributed. SEC. 6. The said acts and journals shall be distributed as follows, to wit, the general acts in the manner prescribed in the act to which this is an amendment; five copies of the special acts shall be forwarded to each county in the state, to be preserved in the clerk's office, one copy to each member of the general assembly, one copy to each of the persons named in the sixth section of the act to which this is an amendment, except the probate judges, and one copy to each of the states and territories of the United States; one copy of the journals of each house shall be forwarded to each member of the general assembly, one copy to each clerk's office and one copy to each county library in the state.

Penalty for delaying the printing. SEC. 7. That the public printers shall be liable to a penalty of ten dollars for each day that the printing is delayed beyond the time specified in the 2d section of the act to which this is an amendment, to be deducted

by the secretary of state from the amount due said printers, at the time he shall certify their respective accounts: *Provided*, That the additional term of fifteen days be allowed the printer of the laws for the completion of his contract of the present year.

SEC. 8. The alphabetical arrangement sometimes observed in printing the acts is hereby dispensed with, and the public printers are authorised to commence the printing whenever they may see proper.

SEC. 9. The secretary of state shall cause to be entered of record in his office, the date when the laws are annually received at the respective clerk's offices in the state, as it may appear from the receipts of the respective clerks; and his certificate, under the seal of the state, shall be evidence of the fact, in any of the counties [courts] of this state.

This act to be in force from its passage.

Alphabetical order dispensed with.

Record of date of the reception of the laws in several countries.

CHAPTER LVII.

AN ACT to attach certain territory therein named.

(APPROVED DECEMBER 24, 1834.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That all the territory lying north of the county of Cass to the line dividing townships thirty two and thirty three north, be and the same hereby is attached to said county for judicial and representative purposes, and that all the territory lying north of the county of White, and of the territory attached thereto, to the aforesaid line be and the same is hereby attached to the county [of] White for the same purposes.

This act to be in force from and after its publication in the Indiana Journal, printed at Indianapolis.

Territory attached to Cass.

To White.

CHAPTER LVIII.

AN ACT entitled an act to attach a part of township No. 19, N. R. 4 E. to township No. 19 N. R. 5 E. and for other purposes.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That so much of congressional town-

Part attached.

ship numbered nineteen, north of Range four East, as lies on the east side of White river and within the town of Noblesville, be and the same is hereby attached, to Congressional township numbered nineteen North of Range five East for school purposes.

Privileges of inhabitants of attached part. SEC. 2. All the inhabitants that now reside or may hereafter reside within the limits of said attached part of township No. 19, N. R. 4. E. shall have and enjoy all the privileges, in the school district to which they are hereby attached, that the inhabitants of said school district do now or may hereafter enjoy except that they shall not have or enjoy any of the fund arising from the sale of section sixteen in the said township numbered 19, North of Range 5 East.

Further privileges of inhabitants. SEC. 3. The inhabitants so as aforesaid in the first section attached shall have the same right to draw and receive their ratable proportion of any and all money that may now or hereafter accrue or belong to said congressional township numbered nineteen North of Range four East in the same manner as if the said attached part had not been so attached but had organized into a school district and built a school house.

SEC. 4. This act to take effect and be in force from and after its passage.

CHAPTER LIX.

AN ACT attaching the northeast quarter of section four, township four, north of range eight east, to the county of Jennings.

(APPROVED FEBRUARY 6, 1835.)

Part attached. SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That all that part of the northeast quarter of section four, in township four north, of range eight east, in the county of Jefferson, be and the same is hereby attached to, and shall form a part of the county of Jennings: *Provided*, that nothing herein contained, shall in any manner affect the revenue due to the county of Jefferson, or any suit or action now pending before any of the courts in Jefferson county.

SEC. 2. This act to take effect and be in force from and after its passage.

Proviso.

CHAPTER LX.

AN ACT for the relief of purchasers of Michigan road and canal lands.

(APPROVED FEBRUARY 7, 1835.)

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the collectors of the several counties in this state in which Michigan road lands or canal lands are situate, shall be and they hereby are authorized and required to receive at any time before the first day of November 1835 the amount of tax due and assessed on each and every tract of Michigan road land or canal lands, for and during the year 1834 and to receipt in full for the same without any additional penalty or per centum whatsoever, and such receipt shall operate as a release from all lien on the tract of land therein specified for tax due as aforesaid, any thing contained in the act to "provide a fund to encourage common schools" approved February 2d, 1832, to the contrary notwithstanding.

This act to take effect and be in force from and after its publication.

CHAPTER LXI.

AN ACT explanatory of "an act to appropriate part of the three per cent. fund" approved January 31, 1833.

(APPROVED FEBRUARY, 6, 1835.)

WHEREAS from the ambiguity of the act of which this is explanatory, doubts have arisen whether the boards doing county business are authorised by the provisions of said act, to appoint more than one commissioner to expend the three per cent. fund appropriated to the several counties of this State; Therefore,

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the boards doing county business may, if they deem it expedient, appoint one or more commissioners or persons to expend the three per cent fund belonging to their proper counties.

This act to be in force from and after its passage.

Preamble.

County board to appoint com'rs.

CHAPTER LXII.

AN ACT to amend an act entitled "an act declaring certain streams therein named public highways, and for other purposes," approved February 10, 1831.

(APPROVED FEBRUARY 7, 1835.)

Repeal.

Be it enacted by the General Assembly of the State of Indiana, That salt creek from its mouth to the junction of the muddy fork thereof, and the said muddy fork from its mouth to Willey's mill, be and the same is hereby declared a public highway.

This act to be in force from and after its publication.

CHAPTER LXIV.

AN ACT to improve the navigation of the Mississinewa river.

(APPROVED FEBRUARY 7, 1835.)

Duty of county board of Randolph. **SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Randolph are hereby authorised and directed, and it is hereby made their duty, at their session in May next, or some other subsequent session, to lay off so much of said river as lies within the limits of said county, and which is declared navigable, into a suitable number of districts; and at their next May session or some subsequent session at the time they lay off said districts and annually thereafter at their May session in each and every year, to appoint one supervisor to each district and allot the hands to work the same.

Who liable to work. **SEC. 2.** It is hereby made the duty of all the hands subject to work on roads, and living within one mile of said river, to work one day in each year on the same for which they shall be exempt one day's work on roads, and the said supervisors and hands shall be governed in all respects by the law relative to opening and repairing roads and highways.

This act to take effect and be in force from and after its passage.

CHAPTER LXIV.

AN ACT authorising the redemption of lands returned to the school commissioner for the non-payment of taxes in Jefferson county and for other purposes.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the owner or owners of any land which has been returned to the school commissioner or clerk of Jefferson county for the non-payment of taxes due thereon, shall have right by themselves, agent or attorney to redeem the same within the time now authorised by law, for the redemption of such lands by paying to the school commissioner or clerk of the Circuit Court as the case may require, the amount of tax due on such land and six per cent. per annum interest thereon; *Provided*, such owner, agent, or attorney make and produce to such commissioner or clerk an affidavit, or prove by some other person that there was personal property on the land so returned sufficient to have paid the tax at the time the tax was due and the return made.

Land how redeemed.

SEC. 2. Where any person whose land has been returned to the school commissioner or clerk of the Circuit Court for the non-payment of taxes may have redeemed the same under the existing laws shall be entitled to claim and receive from the school commissioner or clerk, such amount as may have been paid for the redemption of the same over and above the proper tax and six per cent. per annum interest on the amount of the tax for the non-payment of which the same was so returned, by making or producing the like evidence as provided in the first section of this act.

Land already redeemed over plus to be re-funded.

CHAPTER LXV.

AN ACT extending the time of final payment of the Seminary lands and for other purposes.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the term or period of ten years, mentioned in the fifth section of an act entitled "an act concerning the seminary townships of land in Gibson and Monroe counties" approved January 25, 1827, be and

Addition'l term of five years.

the same is hereby extended to the additional term or period of five years, from and after the expiration of the said term or period of ten years, at the option of the purchaser in that section mentioned, his heirs or assigns under the provisions of that act, and any other act amendatory thereof.

Transfer of certificate may be acknowledged before a J. P.

Sec. 2. That each and every justice of the peace within this state is hereby authorised to take acknowledgments of the transfer of any certificate or certificates of sale of any seminary lands aforesaid, which acknowledgment when so taken and certified by a justice aforesaid shall be as valid in law as if made before, and taken by the recorder of the county where the said lands may lie: *Provided*; That if such acknowledgment be made out of the county in which the land lies mentioned in the certificate, it shall be accompanied by the certificate and official seal of the clerk of the Circuit Court of the county where the justice resides, appended thereto and certifying that the officer before whom such acknowledgment was made, was at the time thereof a justice of the peace of his county. And *provided also*, That nothing in this act shall be so construed, as to exempt the lands in this act mentioned, from taxation after the expiration of ten years, from the time of their sale.

Proviso as to tax on the lands

This act to take effect and be in force from and after its passage.

CHAPTER LXVI.

AN ACT further to amend an act entitled "an act to provide for the sale of certain lands therein named," approved February 2, 1833.

(APPROVED JANUARY 8, 1835.)

Lands in Orange county to be sold in forty acre tracts.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That so much of any lands remaining unsold under the provisions of the act to which this act is an amendment, and which are mentioned in the preamble of the said act, as lie and are situated in the county of Orange, shall be subject to private sale by entry, on application of the purchaser or purchasers to the commissioner at his residence, in quarter quarter sections, that is to say, in tracts of forty acres each according to the survey hereof, heretofore made by the United States, that is to say, by dividing a half quarter sec-

tion equally by a line running east and west parallel with the section lines.

Sec. 2. That no more than one such tract or quarter Not more than one such tract to be sold to the same person except &c. section shall be sold to the same purchaser or purchasers, except that such purchaser or purchasers, as aforesaid may purchase two such tracts or quarter quarter sections if they lie contiguous to each other, or contiguous to other lands owned by such purchaser or purchasers.

Sec. 3. That before any purchaser or purchasers *Affidavit of purchaser.* shall be entitled to purchase or enter any such tract or quarter quarter section, he shall make and file an affidavit on oath or affirmation with the commissioner, who is hereby authorised to administer the same, that such purchaser or purchasers propose to purchase the same for the purpose of cultivating or improving the same, or for the use and benefit of such purchaser or purchasers.

Sec. 4. That on making any such purchase the purchaser or purchasers shall be entitled to receive a certificate, final certificate, and patent as provided for, and under the restrictions contained in the act to which this act is an amendment; and the same provisions, shall obtain, duties devolve and be performed, and restrictions and privileges be imposed, and be secured to the State of Indiana, the commissioner, purchaser or purchasers, and to any other person or persons, so far as the same will be applicable, under the provisions of this act, as are required and contemplated in the case of sales of lands, in the act to which this act is an amendment, and also an act approved January 24, 1834; entitled "an act to amend an act entitled an act, to provide for the sale of certain lands therein named, approved February 2, 1833.

Certificate and patent.

Provisions &c. of former act applicable to this.

Sec. 5. Nothing contained in this act shall be so construed as to prohibit the sale at private entry of one or more half quarter sections as heretofore, taking separate certificates therefor; and provided further, that nothing herein contained shall be so construed as to prevent any one or more persons from purchasing any one or more quarter quarter sections, where the residue of the half quarter section in which the same may be situated, shall have been previously sold without making any such affidavit.

Further provision as to sale of half quarter sections &c.

Sec. 6. The commissioner appointed to sell the same line lands situate in Orange county, shall hereafter receive four per centum and no more of the amount of all moneys by him hereafter received, and paid over to the *Compensation of Com'r.*

Treasurer of the State, arising from the sales of any of said lands in the said county of Orange, in full for his services hereafter, in relation to said lands as such commissioner.

This act to take effect and be in force, from and after its passage and publication in the Indiana Democrat.

CHAPTER LXVII.

AN ACT supplemental to an act entitled an act to provide for the sale of certain lands therein named; approved February 2d, 1833; approved January 8, 1835.

(APPROVED FEBRUARY 7, 1835.)

Commissioner
is authorised to
sue trespass-
ers.

Proviso.

SEC. 1. Be it further enacted by the General Assembly of the State of Indiana, That the commissioner of the Saline lands in the county of Orange be and he is hereby authorized to sue and prosecute in the name of the state of Indiana, before some justice of the peace in the proper township, all and every person who may trespass upon or otherwise damage or injure said land: *Provided*, That all the moneys so received by him for damages aforesaid shall form and constitute a part of the school fund which the said commissioner shall pay over to the [treasurer] of state as all other school fund, except twelve and one half percent, upon the same which he may retain as a remuneration for collecting the same.

SEC. 2. This supplemental act to take effect and be in force from and after its passage.

CHAPTER LXVIII.

AN ACT act to amend an act entitled "an act incorporating Congressional Townships, and providing for public schools therein, approved February 2, 1833," so far as relates to the county of Harrison.

(APPROVED FEBRUARY 7, 1835.)

School lands in
Harrison coun-
ty how to be
sold.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That whenever a majority of the voters of any congressional township in the county of Harrison may have refused, or may hereafter refuse to sell the section reserved for schools as is provided by the act to

which this is an amendment, but shall in the same manner as is provided in said act vote to sell the same without any money to be paid in advance, but the interest on the purchase money to be paid annually forever, they may vote for and decide the same as is prescribed in said act.

SEC. 2. The same proceedings as to the election of Proceedings. trustees for dividing the land into lots and fixing the ^{same as under former act.} minimum price thereon shall be held, as is directed in said act, previous to any sale being made.

SEC. 3. When any sale shall be made in conformity Certificate of to the provisions of this act, and the act to which this sale. is an amendment, the school commissioner shall give a certificate thereof to the purchaser specifying the sale and that the purchaser and his assigns shall annually pay the interest on the purchase money at the time, in the manner, and under the penalties prescribed, in the act to which this is an amendment; and such land, when the certificate thereof shall be so given to the purchaser, shall be held by such purchaser and his heirs and assigns, subject to dower, tenancy by courtesy, and to be taken and sold in execution, and shall be subject to all the other incidents, privileges, and liabilities as if the same were held by the said purchaser in [as] tenant in fee simple, *subject, however, to the forfeitures provided in this act, and the act to which this is an amendment.*

SEC. 4. It shall not be lawful for any purchaser under Waste. this act to commit any waste on the premises which shall render the same less valuable until he has made improvements thereon which shall render the premises by the appraisement of the townships trustees equal in value to twice the amount of the purchase money; nor shall he at any time sell from the premises or destroy timber not necessarily required for use so as to prevent a sufficiency of timber for fencing being always found thereon. And for offending in this respect, all his title claim and interest in the premises shall forfeit, cease and determine.

SEC. 5. The interest accruing upon the purchase money under the provisions of this act, shall be perpetually paid in advance at the commencement of each year, and a failure to pay the said interest for ninety days, after the same may have become due shall forfeit to the township such lot of land on which such interest may be due and unpaid; also the benefit of the contract by which the said land is held. And all purchasers, their heirs or assigns, after the first failure to pay the said interest due in advance, as aforesaid, shall from thenceforth,

Interest when
payable &c.

be considered as tenants at will only: and the goods and chattels of said tenant shall be bound for the payment of the said interest which shall be recovered by the School Commissioner of the proper county before any court having jurisdiction of the same.

Suit to be instituted for land on failure to pay the interest.

Proviso.

Forfeited lands how sold.

SEC. 6. That when any purchaser of such school lands shall fail or refuse the payment of the interest money for the space of ninety days after the same shall have become due as aforesaid, it shall be the duty of the trustees of the proper townships forthwith, after such failure or refusal, to institute proceedings for obtaining the possession of the said lands for the people of said township: *provided however,* That if the said purchaser shall, before such proceedings for obtaining possession of said land shall be finally determined, pay and satisfy to the said School Commissioner of school lands the amount of debt, interest, cost and forfeitures due upon such lands, and shall also pay to said trustees the full amount of the cost of the suit instituted for obtaining possession of such lands, then all proceedings against such purchaser shall cease.

SEC. 7. When the possession of any land shall be recovered by the people of the township by reason and occasion of the forfeiture prescribed by this act, said land shall thereafter be sold by the proper commissioner of school lands in the same manner as other school lands are sold.

This act to take effect and be in force from and after its publication.

CHAPTER LXIX.

AN ACT to attach certain territory to the county of Warren, and for other purposes.

(APPROVED JANUARY 31, 1835.)

Part attached.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That all the territory included within the following boundary, be, and the same is hereby attached to the county of Warren, to wit: beginning on the range line dividing ranges seven and eight west, at the corner of township twenty-four and twenty-five, thence north with said range line, to the line dividing townships twenty-nine and thirty, thence west with said line to the State line, thence with the State line, south to

the line dividing townships twenty-four and twenty-five, thence east on said line to the place of beginning; and that the citizens resident on said territory thus attached, shall enjoy all, and singular the rights and privileges of the citizens of the county of Warren.

SEC. 2. That the county commissioners of said county, shall lay off such number of townships as they may think proper, in the territory so attached, and when laid off, shall be under the same regulation and restriction, that the inhabitants are, in any of the townships in the aforesaid county.

SEC. 3. That the militia, in the said attached territory, be, and they are hereby attached to the eighty-sixth regiment, and liable to the same fines and forfeitures that the militia of said regiment are liable to.

This act to be in force from and after its publication in the Indiana Journal.

Comm'r's to lay off townships.

Militia attached to 86th reg't.

CHAPTER LXX.

AN ACT for the encouragement of Agriculture.

(APPROVED FEBRUARY 7, 1835.)

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the board doing county business in each county in the state, at their next May session, and annually thereafter until an agricultural society shall be formed within the county, to cause notice to be given in such manner as in their opinion may be best calculated to give general publicity throughout the county, that there will be held at the usual place of holding courts in said county on the last Saturday of May, (or some subsequent day if they deem it advisable,) a meeting of the citizens of the county for the purpose of organising a county agricultural society; and when said meeting shall convene, it shall be the duty of some one of the commissioners aforesaid to have a vote of the said meeting taken, to determine whether they will form an agricultural society or not; and if twenty or more of the citizens so convened shall decide in favor of forming such society, they may immediately proceed to an election of officers and a regular organization of a county agricultural society; which, upon such organization, shall possess politic and corpo-

Meeting of the citizens of the city when held and for what purpose.

rate powers: *Provided*, that if a smaller number of persons than twenty, favorable to said object, shall assemble and shall be of the opinion that at some other period a larger number could be convened, they shall have power to adjourn to such time as they may judge expedient, not exceeding ninety days.

Meeting to form township societies.

SEC. 2. That when application shall be made to the board doing county business by five freeholders for the formation of an agricultural society in any township in their county, the said board shall give notice that there will be a public meeting held at such time and place in said township as shall be agreed on by said board and the freeholders applying for such meeting, for the formation of an agricultural society; which meeting and organization shall be conducted as provided for in the organization of county societies in the first section of this act; and if a society shall be organized it may become auxiliary to the county society and shall be entitled to a representative in the annual meeting of the county society; *Provided*, that if no county society shall have been previously formed, such society, shall be held and considered the county society; and any society or societies subsequently formed in the county shall be auxiliary to the first formed in the county.

Proviso.

Officers.

Bond of treasurer.

Tax.

Corporation created.

SEC. 3. The officers of each society shall be a president, vice president, corresponding and recording secretary, treasurer, and one or more curators as the society may determine, for each township in the county, who shall constitute a board of managers, and shall be elected by the society at its annual meeting by ballot or otherwise, and shall hold their offices one year, and until their successors are regularly chosen.

SEC. 4. The treasurer shall be required to enter into bond in such sum and with such security as the board may require, conditioned for the faithful discharge of all the duties required of him by virtue of his office; which bond shall be recorded in the recorder's office of the county and filed with the papers of the society by the recording secretary.

SEC. 5. At the first meeting of the society, and at each subsequent annual meeting, before going into an election for officers, the society shall determine by vote what shall be the tax or amount to be paid by each member for the ensuing year; but said tax shall never exceed five dollars nor less than fifty cents in any year on each member.

SEC. 6. So soon as a certificate signed by the chairman and secretary, that the society has elected its offi-

cers agreeably to the provisions of this act, shall be recorded in the office of the recorder of the county in which said society is located, whose duty it shall be to record the same for a fee of twelve and a half cents; they and their successors shall be in law and in fact a body politic and corporate, to have continuance for ever by the name and style of the agricultural society of _____ county, and by such corporate name and style shall be for ever able and capable in law and equity to sue and be sued, plead and be impleaded, answer and to be answered unto, defend and be defended in all manner of suits, actions, plaints, pleas, causes, matters, and demands of whatever kind and nature they may be, in as full and effectual manner as any person or persons, bodies corporate and politic may or can do.

SEC. 7. Said board of managers shall have power to make and alter by-laws, any five of whom shall form a quorum, to determine on what articles, animals, modes of husbandry, agricultural essays, crops, domestic manufactures, or other matters or improvements connected with agriculture, mechanic arts, or rural and domestic economy they will confer prizes or premiums, and the amount thereof; to fix all places of exhibitions or fairs; to appoint all subordinate officers necessary to carry on their operations; to fill vacancies occurring in their own body in the recess of their annual meetings; to provide for the admission of members, and to fix the places and manner of holding elections, as also the time, giving at least ten days notice; and to enact such other by-laws and regulations, and do such other acts as may be necessary to carry into effect the object of the association; it shall also be their duty to hold a meeting at such time as they may agree upon between the first day of October and the first day of December in each year; and shall make out an annual report setting forth their number of members, the amount of money paid in their treasury; and in general the manner in which the same has been expended; also the general condition of agriculture in their county; the principal articles of produce and manufacture therein; with the quantity, quality, and value of each, as nearly as can be ascertained; the influence their society has exerted on the agriculture of their county; and the results promised thereby, with such other matters of agricultural improvement or intelligence as in their opinion may be useful to the public; they shall also appoint a delegate to attend the meeting of the state society as hereinafter provided for, who shall receive from the secretary a certificate of his appointment; which certifi-

Powers and duties of the board of managers.

cate shall entitle him to a seat in the state board; the report above required, together with a notice of the appointment of the delegate, shall be forwarded by the recording secretary of the county society, to the secretary of the state board.

Seal.

Donations.

Provis.

**County board
may appropri-
ate \$50 annu-
ally.**

**Application of
funds.**

**Withdrawal of
membership.**

**State board of
agriculture to
be formed by
the Governor.**

**Duties of the
State board.**

SEC. 8. Said board of managers may have a common seal with which to seal their official acts, which they may alter or substitute by another at pleasure.

SEC. 9. Said corporation may receive donations of land or other property for the use of the society: *Provided*, they shall not hold real estate above the value of five hundred dollars for a longer period than one year unless the same be used as farms or gardens for agricultural experiments or purposes.

SEC. 10. The board doing county business in any county where there shall be an agricultural society formed under the provisions of this act may appropriate out of the funds of said county any sum not exceeding fifty dollars in any one year, in aid of such society; which sum shall be applied under the direction of the board of managers of such society.

SEC. 11. No funds of the society shall be applied to any other purpose than to those for the promotion of which such society was formed.

SEC. 12. Nothing in this act shall be so construed as to prevent any member of an agricultural society from withdrawing his membership on giving notice to the treasurer, and paying his dues.

SEC. 13. There shall be formed a state board of agriculture consisting of five persons to be appointed by the Governor, who shall hold their offices for five years, and until successors are duly appointed. The board when organised shall have power to fill any vacancies which may occur in their body by appointment, which shall terminate with the expiration of the term of members regularly appointed, and possesses all the corporate and politic powers granted to county societies by this act, by and under the style of the "Indiana State Board of Agriculture." It shall be the duty of the persons appointed as members of the state board to organise immediately by appointing one of their own body president and by appointing a secretary and treasurer; they shall collect from county societies, and from all other sources to them accessible, such information as shall be calculated to promote the agricultural interests of the state; give such directions or instructions to county societies as may tend to produce system, uniformity, and efficiency of action on the part of said societies; pre-

pare, procure, publish, and circulate such agricultural extracts or other works, and conduct such agricultural experiments as may be ordered by the legislature or by county societies, in state meeting represented; they shall also receive and record or file all papers of county societies committed to their care; make all necessary arrangements for the annual meetings of the state society; make an annual report to the legislature, embracing a statement of their own proceedings, an abstract of the reports from the several county societies, and such other information and recommendations as in their judgment would be interesting and useful to the agricultural community; and shall perform such other duties as shall be prescribed by the legislature or the state society.

SEC. 14. There shall be held annually in Indianapolis on the second Monday in December, a meeting of the state board and of the delegates from the county societies, which shall be known as the annual meeting of the state agricultural society of Indiana; the object of which shall be to devise plans of operations, means of diffusing agricultural intelligence, and to give to that cause the best and most efficient impulse which may be afforded by their combined action and influence.

SEC. 15. That so much of an act entitled an act for the incorporation of agricultural societies, approved January 22, 1829, as comes within the purview of this act, to be, and the same is hereby repealed.

SEC. 16. This act to take effect and be in force from and after its publication in the Indiana Journal and Democrat.

*Annual meet-
ing of State
board to be
held at Indian-
apolis 2d Mon-
day in Dec.*

Repeal.

INDEX.

INDIANA to wit;

I do certify, that I have compared the foregoing printed acts, with the original rolls on file in my office, and found them correct, with the exception of the words included [thus], inserted to aid the sense.

SECRETARY'S OFFICE.
Indianapolis, 10th March, 1835.

WILLIAM SHEETS,
Secretary of State.

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